

EXHIBIT C

HOWLETT v. CITY OF WARREN, ET AL.

GREGORY MURRAY

II

February 26, 2018

Prepared for you by

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<p>1 UNITED STATES DISTRICT COURT 2 EASTERN DISTRICT OF MICHIGAN 3 SOUTHERN DIVISION 4 5 DESHEILA C. HOWLETT, 6 Plaintiff, 7 vs. Case No. 17-11260 8 Hon. Terence G. Berg 9 Mag. R. Steven Whalen 10 CITY OF WARREN; COMMISSIONER JERE 11 GREEN, acting in his individual capacity; 12 LT. LAWRENCE GARDNER; SHAWN 13 JOHNSON; DAWN McLANE; BARBARA 14 BEYER; ANWAR KHAN; DARRIN LABIN; 15 WILLIAM ROSS; KEVIN BARNHILL; 16 PAUL HOUTOS; SCOTT TAYLOR, 17 Defendants. 18 19 VOLUME II 20 21 22 23 24 25</p>	<p>1 RONALD G. ACHO 2 Cummings, McClorey, Davis & Acho, P.L.C. 3 17436 College Parkway 4 Livonia, Michigan 48152 5 (734) 261-2400 6 rachoc@cmda-law.com 7 Appearing on behalf of the Defendants, City of Warren, 8 Jere Green, Lawrence Garner, Shawn Johnson, Dawn 9 McLane, Anwar Khan, Darrin Labin, William Ross, Kevin 10 Barnhill, Paul Houtos and Scott Taylor. 11 12 ETHAN VINSON 13 City of Warren 14 1 City Square 15 Suite 400 16 Warren, Michigan 48093 17 (586) 574-4671 18 evinson@cityofwarren.org 19 Appearing on behalf of the Defendants, City of Warren, 20 Jere Green, Lawrence Garner, Shawn Johnson, Dawn 21 McLane, Anwar Khan, Darrin Labin, William Ross, Kevin 22 Barnhill, Paul Houtos and Scott Taylor. 23 24 25</p>
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<p>1 The Continued Deposition of GREGORY MURRAY, 2 Taken at 645 Griswold Street, Suite 4100, 3 Detroit, Michigan, 4 Commencing at 2:37 p.m., 5 Monday, February 26, 2018, 6 Before Wendy M. Taylor, CSR-6922. 7 8 9 APPEARANCES: 10 11 LEONARD MUNGO 12 The Mungo Law Firm, P.L.C. 13 333 West Fort Street 14 Suite 1500 15 Detroit, Michigan 48226 16 (313) 963-0407 17 mungol16@msn.com 18 Appearing on behalf of the Plaintiff. 19 20 21 22 23 24 25</p>	<p>1 JONATHAN R. MARKO 2 Ernst & Marko Law 3 645 Griswold Street 4 Suite 4100 5 Detroit, Michigan 48226 6 (313) 965-5555 7 jon@ernstmarkolaw.com 8 Appearing on behalf of the Witness. 9 10 ALSO PRESENT: 11 Dan Bradley 12 Mark Simlar 13 14 15 16 17 18 19 20 21 22 23 24 25</p>

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1	TABLE OF CONTENTS	1	like this is taking time.
2		2	First of all, you came in later than 2:30.
3	WITNESS PAGE	3	We were supposed to start at 2:30. I just want to be
4	GREGORY MURRAY	4	sure, this is taking time away from the deposition,
5		5	which is why we need to keep track of this. We'll be
6	EXAMINATION BY MR. ACHO: 137	6	happy to answer any questions you have.
7	RE-EXAMINATION BY MR. MUNGO: 340	7	MR. MUNGO: Let the record reflect, first
8		8	of all, that we came in at about 2:35 so that
9	EXHIBITS	9	you're -- we came in late doesn't be interpreted as
10		10	being beyond five minutes, and secondly, it is our
11	EXHIBIT PAGE	11	position, my position as plaintiff, that you are only
12	(Exhibits attached to transcript.)	12	entitled to have one representative from the City,
13		13	sir.
14	DEPOSITION EXHIBIT 1 308	14	MR. ACHO: That's up to you.
15	DEPOSITION EXHIBIT 2 324	15	Let's start.
16	DEPOSITION EXHIBIT 3 339	16	MR. MARKO: Well, I think I would concur
17	DEPOSITION EXHIBIT 4 339	17	with Mr. Mungo. I don't understand, and maybe you can
18	DEPOSITION EXHIBIT 5 339	18	give a legal basis for how you can have two
19	DEPOSITION EXHIBIT 6 339	19	representatives, but my understanding is you're only
20	DEPOSITION EXHIBIT 7 339	20	allowed to have one representative, sir, and I don't
21	DEPOSITION EXHIBIT 9 339	21	think we can go forward with the deposition until the
22		22	judge rules. If you can provide a basis for why you
23		23	need two representatives from the City -- you're only
24		24	allowed to have one rep.
25		25	MR. ACHO: That's not true. Do you see how
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1	Detroit, Michigan	1	many defendants there are?
2	Monday, February 26, 2018	2	MR. MUNGO: Well, first of all, there's a
3	2:37 p.m.	3	problem that I have with Mr. Simlar being here and
4		4	Lieutenant Bradley being here. Lieutenant Bradley was
5	MR. MUNGO: So this is Attorney Leonard	5	a representative of the City when we deposed several
6	Mungo. I represent Ms. Howlett and I have a question	6	police officers from the City at Warren City Hall.
7	with regard to who the additional parties are here?	7	Mr. Simlar is going to be deposed on
8	MR. ACHO: There are no additional parties	8	Wednesday of this week, the 28th, which is -- we have
9	here.	9	the 27th, tomorrow, and then the 28th. Mr. Murray's
10	MR. MUNGO: So why are two individuals here	10	deposition, I'm assuming, is of utmost interest to Mr.
11	from the City and neither one are parties?	11	Simlar in preparation for his deposition on the 28th,
12	MR. ACHO: They're representatives of the	12	Wednesday.
13	City. They're representatives of the City and	13	MR. ACHO: That's your assumption. His
14	representatives of the police department.	14	deposition will not go forward if I don't finish his.
15	MR. MARKO: Why do we have two	15	MR. MUNGO: Then who will you leave here as
16	representatives for the City.	16	representative for the City, sir?
17	MR. ACHO: No, one for the City, one for	17	MR. ACHO: I have both.
18	the police.	18	MR. MARKO: Are you named defendants in
19	MR. MARKO: No. No, can we just have	19	this case?
20	everybody identify themselves?	20	MR. MUNGO: No.
21	MR. ACHO: Sure. Also, just so we know,	21	MR. MARKO: Sir, are you a named defendant
22	we're are going to take four full hours, which will	22	in this case?
23	not include things like this or objections or breaks,	23	MR. VINSON: I'm an attorney of record in
24	okay, because I want to be sure, because if we don't	24	the case.
25	finish, you know, then we'll have to continue it, so	25	MR. MARKO: You are an attorney of record

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<p>1 in this case?</p> <p>2 MR. VINSON: Yes, I am.</p> <p>3 MR. MUNGO: City of Warren.</p> <p>4 MR. MARKO: Are you a named defendant in</p> <p>5 this case?</p> <p>6 MR. SIMLAR: No.</p> <p>7 MR. MARKO: Are you a named defendant in</p> <p>8 this case?</p> <p>9 MR. BRADLEY: So.</p> <p>10 MR. MARKO: So who is the representative</p> <p>11 for the City?</p> <p>12 MR. ACHO: Mr. Simlar.</p> <p>13 MR. MARKO: So then I would agree with</p> <p>14 Mr. Mungo that --</p> <p>15 MR. ACHO: How many defendants are there</p> <p>16 that --</p> <p>17 MR. MARKO: I see a lot of defendants.</p> <p>18 MR. ACHO: Sure. He's representing the</p> <p>19 police.</p> <p>20 MR. MARKO: Who represents the police?</p> <p>21 MR. BRADLEY: I am.</p> <p>22 MR. ACHO: Now, I have to tell you</p> <p>23 something, I'm here, we had a hard time getting this</p> <p>24 man's deposition because of his illness.</p> <p>25 MR. MARKO: And I accommodated you guys.</p>	<p>1 MR. ACHO: 45 years.</p> <p>2 MR. MARKO: 45 years.</p> <p>3 MR. ACHO: You know what, this is the first</p> <p>4 time I've had someone raise this so, you know what, if</p> <p>5 you want to call the court, that's up to you. I'm</p> <p>6 ready to go forward. If we don't go forward, no</p> <p>7 depositions will go forward and I will file a motion</p> <p>8 and, of course, I'll call the court and tell them I'm</p> <p>9 going to file a motion and I'm sure that Judge Berg</p> <p>10 won't be happy.</p> <p>11 MR. MUNGO: Well, first of all, before a</p> <p>12 motion to compel or any kind of motion is filed, we</p> <p>13 have to get leave of the court and the court requires</p> <p>14 us to have a conference prior to that in order to get</p> <p>15 leave, so let's just call the court and let the court</p> <p>16 rule on it and then we can move forward, okay, one way</p> <p>17 or another?</p> <p>18 Can someone get Judge Berg's number? I</p> <p>19 don't have that number handy.</p> <p>20 (Mr. Marko left the deposition room at</p> <p>21 2:24 p.m.)</p> <p>22 MR. ACHO: His phone number is (810) --</p> <p>23 MR. MUNGO: Let's wait.</p> <p>24 MR. ACHO: I gave you his number. Let's</p> <p>25 type it in. Please call.</p>
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<p>1 MR. ACHO: It's his illness, not ours.</p> <p>2 MR. MARKO: I accommodated you as soon as</p> <p>3 we got involved so you could get this deposition.</p> <p>4 MR. ACHO: You didn't do us any favors,</p> <p>5 nothing, it was your client that was unavailable.</p> <p>6 Now, I want to proceed, if not, I'll tell you what,</p> <p>7 I'm going to go into court with a show cause, if</p> <p>8 that's what you want to do and we will not go forward</p> <p>9 with the other deposition.</p> <p>10 MR. MUNGO: We can just call the court</p> <p>11 right now because the court prefers us to have a</p> <p>12 conference --</p> <p>13 MR. ACHO: Then you --</p> <p>14 MR. MARKO: -- a leave of the court to file</p> <p>15 a motion to compel.</p> <p>16 So let's call the court and let the court</p> <p>17 rule on this right now.</p> <p>18 MR. ACHO: That's your choice.</p> <p>19 MR. MUNGO: Okay. Good.</p> <p>20 MR. MARKO: I'd just like to know a legal</p> <p>21 basis for having more than one representative, it's</p> <p>22 highly irregular?</p> <p>23 MR. ACHO: I'm not --</p> <p>24 MR. MARKO: I know you have been practicing</p> <p>25 a lot longer than I have so --</p>	<p>1 MR. MUNGO: I'll write it down but I'm not</p> <p>2 going to call until Mr. Marko gets back.</p> <p>3 MR. ACHO: I'm sorry. If you're waiting</p> <p>4 for him --</p> <p>5 MR. MUNGO: (810) --</p> <p>6 MR. ACHO: 341-9760. No, I don't have a</p> <p>7 problem with that, of course not. I just don't like</p> <p>8 having to do this, it's a waste of time.</p> <p>9 MR. MUNGO: I'm not sure what you don't</p> <p>10 have a problem with is me zealously representing my</p> <p>11 client though, right?</p> <p>12 (Mr. Marko entered the deposition room at</p> <p>13 2:43 p.m.)</p> <p>14 MR. MUNGO: Okay.</p> <p>15 MR. ACHO: The next deposition will be at</p> <p>16 my office. If this does not go forward today, the</p> <p>17 next will be at my office.</p> <p>18 MR. MARKO: We're not agreeing to that.</p> <p>19 MR. ACHO: Well, we'll bring it up with the</p> <p>20 court.</p> <p>21 MR. MARKO: You know that --</p> <p>22 MR. ACHO: We'll bring it up with the</p> <p>23 court.</p> <p>24 MR. MUNGO: Yes, this is Attorney Leonard</p> <p>25 Mungo and --</p>

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<p style="text-align: right;">Page 127</p> <p>1 MR. ACHO: Put it on speaker phone, please?</p> <p>2 MR. MUNGO: -- I'm calling regarding the</p> <p>3 Howlett vs. City of Warren matter, and we're here at a</p> <p>4 deposition and we have a question that we need the</p> <p>5 magistrate to help us resolve regarding the parties,</p> <p>6 two individuals from the City of Warren attending the</p> <p>7 deposition, one of which whose deposition is going to</p> <p>8 be heard a couple days from now, neither one of them</p> <p>9 are parties and we just need the court to help us</p> <p>10 resolve this so we can -- I'll put you on</p> <p>11 speakerphone.</p> <p>12 MR. ACHO: Wait. Not we, you have the</p> <p>13 problem. Tell them you have the problem.</p> <p>14 Hi, this is Ron --</p> <p>15 MR. MUNGO: Hold on. Hold on. One second.</p> <p>16 Hello, ma'am, so this is Attorney Leonard</p> <p>17 Mungo representing the plaintiff and --</p> <p>18 MR. ACHO: Hi, this is Attorney Ron Acho.</p> <p>19 The parties are not requesting this call. This is</p> <p>20 Mr. Mungo requesting this call. I have tried to</p> <p>21 schedule this deposition for a long time. We finally</p> <p>22 have it and now they don't want to proceed because the</p> <p>23 company has a representative from the City and a</p> <p>24 representative from the police department and they</p> <p>25 don't want to go forward.</p>	<p style="text-align: right;">Page 129</p> <p>1 of the deponent, Mr. Greg Murray.</p> <p>2 MR. MUNGO: And this is Leonard Mungo, I</p> <p>3 represent the plaintiff.</p> <p>4 TELEPHONE: Okay. Hold on just a moment.</p> <p>5 I have to see if Judge Berg is available. He's just</p> <p>6 finishing up another matter so just a moment, please.</p> <p>7 MR. MUNGO: Yes, ma'am. Thank you.</p> <p>8 TELEPHONE: Counsel, this is Amanda with</p> <p>9 the court.</p> <p>10 MR. MUNGO: Yes.</p> <p>11 TELEPHONE: I just wanted to let you know</p> <p>12 that Judge Berg will be available in a few moments, it</p> <p>13 will probably be about five minutes until he's on the</p> <p>14 line. If it's all right, I'll keep you on hold until</p> <p>15 then?</p> <p>16 MR. MARKO: That's fine. Thank you.</p> <p>17 JUDGE BERG: Hello. Good afternoon. This</p> <p>18 is Judge Terry Berg. I don't know entirely what</p> <p>19 you're calling about, but who would like to fill me in</p> <p>20 on it?</p> <p>21 MR. ACHO: Your Honor, this is Ron Acho.</p> <p>22 We've been trying for two weeks to get the deposition</p> <p>23 of this witness concluded that was started by</p> <p>24 plaintiff's counsel. We finally got it. We came all</p> <p>25 the way to downtown Detroit at 2:30 to accommodate</p>
<p style="text-align: right;">Page 128</p> <p>1 MR. MARKO: That's not entirely accurate.</p> <p>2 This is Attorney Jon Marko. I represent the deponent,</p> <p>3 Greg Murray. The reason why we --</p> <p>4 TELEPHONE: Counsel, I need to interrupt</p> <p>5 you for a moment. I'm familiar with the case you're</p> <p>6 talking to me about, but I don't have a case number so</p> <p>7 I can't pull up the docket or anything.</p> <p>8 MR. MUNGO: Yes, ma'am, I've got it right</p> <p>9 here, it's 17-11260.</p> <p>10 TELEPHONE: Okay.</p> <p>11 MR. MUNGO: And that's DeSheila Howlett vs.</p> <p>12 City of Warren and others.</p> <p>13 TELEPHONE: Okay. Do we have all parties</p> <p>14 on the line currently?</p> <p>15 MR. MUNGO: We do, ma'am, yes.</p> <p>16 TELEPHONE: Okay. It sounds to me like</p> <p>17 you're in the middle of a deposition and you're having</p> <p>18 issues, which you are requesting --</p> <p>19 MR. MARKO: That's correct.</p> <p>20 MR. ACHO: The deposition has not started.</p> <p>21 They will not proceed.</p> <p>22 MR. MARKO: We're all present in the</p> <p>23 deposition conference room. We have a dispute as to</p> <p>24 who's allowed to attend the deposition. This is</p> <p>25 Jonathan Marko, I have a limited appearance on behalf</p>	<p style="text-align: right;">Page 130</p> <p>1 this witness, so I'm here with the city attorney of</p> <p>2 Warren and with the representative from the city and</p> <p>3 the representative of the police department.</p> <p>4 We're ready to go and now they don't want</p> <p>5 to go forward. They said, oh, no, you can't have two</p> <p>6 people. I said why not, one is representing the City</p> <p>7 of Warren and the other is representing the police</p> <p>8 department. This is a complete waste of time and a</p> <p>9 delay, Your Honor.</p> <p>10 JUDGE BERG: Okay. Hold on. Everybody,</p> <p>11 let's not try to engage in any advocacy. I'm just</p> <p>12 trying to understand what the facts are. Who is the</p> <p>13 witness?</p> <p>14 MR. MUNGO: The witness is Mr. Murray, the</p> <p>15 former diversity coordinator for the City of Warren,</p> <p>16 Judge, and he's the deponent here today and he has</p> <p>17 separate counsel representing him, Mr. Marko.</p> <p>18 MR. MARKO: Good afternoon, Judge, this is</p> <p>19 Jonathan Marko and I have a limited appearance on</p> <p>20 behalf of Mr. Murray.</p> <p>21 I think the only issue we have is we</p> <p>22 accommodated -- defense counsel says they accommodated</p> <p>23 us and, in my opinion, we accommodated them. I</p> <p>24 cleared my schedule after finding out about this</p> <p>25 deposition late last week.</p>

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<p style="text-align: right;">Page 131</p> <p>1 Anyway, we're at my office in downtown 2 Detroit, a block from Your Honor's chambers and the 3 issue that we have is the defendants have brought, in 4 addition to their attorney who is sitting across from 5 me, three separate representatives -- 6 MR. ACHO: No. No. No. No. 7 MR. MARKO: -- two separate 8 representatives, as well as the city attorney. 9 Mr. Mungo lodged an objection because, I 10 believe, one of the representatives is being deposed 11 on Wednesday. Mr. Mungo lodged an objection to having 12 multiple representatives present. I concurred in that 13 objection and we've called the court for guidance 14 moving forward so we can get this done today. 15 MR. ACHO: Your Honor, Ron Acho. There are 16 10 defendants, okay, and the fact that Mr. Simlar is 17 going to be deposed in a couple days makes no 18 difference. He's the HR director, the acting HR 19 director, and that's why he's here. The lieutenant is 20 here from the police department. 21 Counsel says to you that he accommodated 22 our schedule, that's not true. His former attorney, 23 Mr. Murray, dropped out. 24 Isn't that what happened, someone dropped 25 out, that's why you stepped in?</p>	<p style="text-align: right;">Page 133</p> <p>1 JUDGE BERG: So we know, we have one 2 representative for the City of Warren and that's the 3 HR director, Mr. Simlar. Who is the other 4 representative you're talking about? 5 MR. ACHO: It's Lieutenant Dan Bradley, 6 Your Honor, who has been coordinating things involving 7 the defense for these 10 individual officers, 8 including the former police commissioner. 9 JUDGE BERG: Okay. All right. Let me ask, 10 counsel for Ms. Howlett -- and I'm not sure, who is 11 counsel for the plaintiff again? 12 MR. MUNGO: Attorney Leonard Mungo, Your 13 Honor, and Jonathan Marko is counsel for the deponent 14 today. 15 JUDGE BERG: Okay. So, Mr. Mungo, are you 16 objecting to the two representatives? 17 MR. MUNGO: I am, Your Honor, and the City 18 of Warren and individual officers are defendants in 19 this case, not the police department. 20 MR. ACHO: Well, the former police 21 commissioner -- 22 JUDGE BERG: Hold on, Mr. Acho. Don't say 23 anything until I ask you. I'm still asking Mr. Mungo. 24 So, Mr. Mungo, why are you saying that you 25 object to having the two representatives?</p>
<p style="text-align: right;">Page 132</p> <p>1 MR. MARKO: Mr. Acho, all that I know is 2 that I was contacted late last week and we 3 accommodated you. We moved things around to get the 4 deposition in but that's irrelevant. Let's talk about 5 the representatives that are here today so we can move 6 forward with this deposition. 7 MR. ACHO: No. No, Your Honor, we drove 8 down today and this is -- this is -- it doesn't make 9 any sense. We came down to downtown Detroit for this 10 deposition as an accommodation to this witness and it's 11 been delayed because of his illness. We're here and 12 ready to go and now -- you know, we have four hours to 13 get this deposition done and now I don't think we are 14 going to be able to get it done but at least we want 15 to start, Your Honor. 16 MR. MUNGO: Judge, the deposition has not 17 been delayed. In fact, this deposition is taking 18 place two days earlier than what it was scheduled 19 before Mr. Marko took on representing Mr. Murray. I 20 want to make that clear. 21 JUDGE BERG: All right. Let me just ask, 22 who is the representative for the City of Warren? 23 MR. ACHO: Mark Simlar, the acting human 24 resources director, Your Honor, and this is an 25 employment case involving the police department.</p>	<p style="text-align: right;">Page 134</p> <p>1 MR. MUNGO: Your Honor, the two 2 representatives at these depositions have either been 3 Mr. Simlar or Lieutenant Bradley. Mr. Simlar is going 4 to be deposed on Wednesday, the day after tomorrow, 5 and Mr. Murray's deposition is a key deposition with 6 regard to Mr. Simlar's deposition as well, and insofar 7 as the parties, Your Honor, neither one of these 8 individuals are parties, they are representatives of 9 the City. 10 The police department is not a party. We 11 have individuals who work for the police department 12 that are parties, Your Honor, and so based upon the 13 fact that the police department is not a party but the 14 City is and individual police officers, that's the 15 basis of my objection. 16 JUDGE BERG: All right. Well, thank you 17 very much for explaining that. I appreciate it. Hold 18 on one second, okay? 19 MR. MUNGO: Yes, Judge. 20 JUDGE BERG: All right. Thank you very 21 much. Here's what I'm going to tell you, I think it's 22 reasonable to have both of these representatives be 23 there and so to the extent that -- Mr. Mungo, your 24 objection to that, I'm going to overrule that until 25 you find it's not permissible for both of them to be</p>

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<p style="text-align: right;">Page 135</p> <p>1 there.</p> <p>2 Having said that, let's keep this limited</p> <p>3 to no more than two representatives in a case like</p> <p>4 this and if anybody wants to bring any more than</p> <p>5 that -- I mean, the police department may not be sued,</p> <p>6 but you have a bunch of individual police officers and</p> <p>7 certainly we're not going to withdraw them from being</p> <p>8 there, so it's okay to have a person from the police</p> <p>9 administration and the City is a defendant and the</p> <p>10 City has the right to be present.</p> <p>11 Let's just stop focusing on the small</p> <p>12 things and just focus on getting this deposition done</p> <p>13 and if you run into any more difficulties where</p> <p>14 someone is bringing an unreasonable number of</p> <p>15 representatives, give me a call, but I don't think</p> <p>16 that this is unreasonable and I want you all to focus</p> <p>17 on the actual -- you know, the actual issues within</p> <p>18 the matter and not the smaller things, all right?</p> <p>19 MR. MUNGO: Very well, we appreciate it.</p> <p>20 MR. ACHO: Your Honor, there's one other</p> <p>21 matter, since we have you on the phone. I was advised</p> <p>22 that Mr. Murray has health issues, which is why this</p> <p>23 deposition has been delayed and brought up at this</p> <p>24 late hour --</p> <p>25 MR. MARKO: That's not true.</p>	<p style="text-align: right;">Page 137</p> <p>1 MR. MARKO: Judge, we're willing and ready</p> <p>2 to move forward. Thank you for your ruling on this</p> <p>3 and we'll make sure we get it done tonight.</p> <p>4 MR. ACHO: Well, you took all that time for</p> <p>5 his deposition, we didn't.</p> <p>6 JUDGE BERG: Hold on. Mr. Acho, stop. I</p> <p>7 don't need to be on the phone for this. You will</p> <p>8 complete the deposition today. Thank you.</p> <p>9 MR. MARKO: Thank you.</p> <p>10 MR. ACHO: Thank you.</p> <p>11 MR. MUNGO: Thank you.</p> <p>12 MR. MARKO: Before we get started, Madam</p> <p>13 Court Reporter, do you have a way to time the</p> <p>14 deposition as it's going on?</p> <p>15 (Discussion off the record at 3:03 p.m.)</p> <p>16 (Back on the record at 3:05 p.m.)</p> <p>17 MR. MARKO: All right. Counsel, I think</p> <p>18 we're ready to proceed and we'll mark the time as</p> <p>19 beginning now. Thank you.</p> <p>20 GREGORY MURRAY,</p> <p>21 was thereupon called as a witness herein, and after</p> <p>22 having first been duly sworn to testify to the truth,</p> <p>23 the whole truth and nothing but the truth, was</p> <p>24 examined and testified as follows:</p> <p>25 EXAMINATION</p>
<p style="text-align: right;">Page 136</p> <p>1 MR. ACHO: -- so I need the full four hours</p> <p>2 for this deposition and I'm concerned that they're</p> <p>3 going -- because of objections and delays, that we're</p> <p>4 not going to get the four hours in today.</p> <p>5 I just want to alert the court that we may</p> <p>6 have to break because of his health or whatever issues</p> <p>7 and we may have to continue. We'll start it now but</p> <p>8 we may not be able to finish the four hours reasonably</p> <p>9 today.</p> <p>10 MR. MUNGO: Your Honor, first of all, the</p> <p>11 deposition, there were 3 hours and 45 minutes that's</p> <p>12 remaining in terms of the 7 hours allowed under the</p> <p>13 Rules, it's not 4 hours, and secondly, Mr. Murray is a</p> <p>14 witness and it's my understanding that Mr. Murray</p> <p>15 would like to conclude this today and he's willing, is</p> <p>16 that correct, sir?</p> <p>17 MR. MURRAY: Yes.</p> <p>18 MR. MUNGO: He's willing to sit for however</p> <p>19 long but he needs this to be done today because he</p> <p>20 does have to go into the hospital for a procedure, is</p> <p>21 that correct?</p> <p>22 MR. MURRAY: Yes, that is correct and I</p> <p>23 will have to move around. I can't sit on my right --</p> <p>24 MR. ACHO: That's not a problem, don't</p> <p>25 worry about that.</p>	<p style="text-align: right;">Page 138</p> <p>1 BY MR. ACHO:</p> <p>2 Q. Are you an honest person?</p> <p>3 A. Yes.</p> <p>4 Q. Have you ever lied?</p> <p>5 A. Yes.</p> <p>6 Q. So you have lied on multiple occasions, right?</p> <p>7 A. No.</p> <p>8 Q. Well, you said you lied?</p> <p>9 A. When I was a child and I didn't want to get in</p> <p>10 trouble, things like that.</p> <p>11 Q. And in the last 25 years you've never given a lie,</p> <p>12 right?</p> <p>13 A. That's correct.</p> <p>14 Q. Let me understand something, you're not a shy person,</p> <p>15 are you?</p> <p>16 MR. MARKO: Objection, vague.</p> <p>17 A. What do you mean by shy?</p> <p>18 BY MR. ACHO:</p> <p>19 Q. Do you know what the word shy means?</p> <p>20 A. Explain it to me, your definition of shy so I answer</p> <p>21 the question accurately.</p> <p>22 Q. Hesitant, afraid to speak up. Are you afraid to speak</p> <p>23 up?</p> <p>24 A. No.</p> <p>25 Q. In fact, you've been in public service for a long</p>

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<p style="text-align: right;">Page 139</p> <p>1 time --</p> <p>2 A. Correct.</p> <p>3 Q. -- and you've never been afraid to speak up, have you?</p> <p>4 A. No.</p> <p>5 Q. And, in fact, whenever you've seen discrimination or</p> <p>6 something wrong, you spoke up, didn't you?</p> <p>7 A. Some occasions.</p> <p>8 Q. Most of the time you did, right?</p> <p>9 A. On some occasions.</p> <p>10 Q. There are other times you didn't, is that what you're</p> <p>11 saying?</p> <p>12 A. Yes.</p> <p>13 Q. Why?</p> <p>14 A. Because it may have been something I would have no</p> <p>15 impact over.</p> <p>16 Q. So you would see something wrong and not speak up when</p> <p>17 you were working in public service?</p> <p>18 A. I would see where others would speak up, I would not</p> <p>19 have to.</p> <p>20 Q. I see.</p> <p>21 MR. MARKO: One second. Wait until he's</p> <p>22 finished with the question and take a breath and</p> <p>23 then -- because we need a clear record so wait.</p> <p>24 BY MR. ACHO:</p> <p>25 Q. So you would speak up if you felt something was</p>	<p style="text-align: right;">Page 141</p> <p>1 A. You asked me two questions there.</p> <p>2 BY MR. ACHO:</p> <p>3 Q. We'll read it -- well, do you understand the question?</p> <p>4 A. No.</p> <p>5 Q. You don't understand it?</p> <p>6 A. No, I don't.</p> <p>7 Q. Okay. You did tell Mayor Fouts you would give him</p> <p>8 honest feedback, correct?</p> <p>9 A. Yes.</p> <p>10 Q. And you did give him honest feedback, correct?</p> <p>11 A. Yes.</p> <p>12 Q. So whenever you saw discrimination you reported it to</p> <p>13 him, correct?</p> <p>14 A. In what context are you asking?</p> <p>15 Q. In any context at all?</p> <p>16 A. No.</p> <p>17 Q. So you did not always tell him when you saw</p> <p>18 discrimination, you did not?</p> <p>19 A. I'm confused by your question, sir.</p> <p>20 Q. Okay. Did you -- were you always -- hold on. Didn't</p> <p>21 you say to other people that you like Mayor Fouts, you</p> <p>22 did say that?</p> <p>23 A. Yes.</p> <p>24 Q. You said that to several people including Mr. Simlar</p> <p>25 and others?</p>
<p style="text-align: right;">Page 140</p> <p>1 discriminatory, unless someone else was going to speak</p> <p>2 up, is that correct?</p> <p>3 MR. MARKO: Objection to form.</p> <p>4 Go ahead.</p> <p>5 A. The way the question was phrased is wrong. I do speak</p> <p>6 up.</p> <p>7 BY MR. ACHO:</p> <p>8 Q. Good. In fact, when you got hired by Mayor Fouts for</p> <p>9 the City of Warren you told him I will speak up</p> <p>10 whenever I see any injustice, if I see anything wrong</p> <p>11 I will speak up, you told Mayor Fouts that before he</p> <p>12 even hired you, correct --</p> <p>13 A. I don't recall making that statement, sir.</p> <p>14 Q. -- or words to that effect?</p> <p>15 A. I don't recall making that statement.</p> <p>16 Q. Well, when the mayor asked you to take the job he</p> <p>17 wanted you to give him feedback, honest feedback,</p> <p>18 correct?</p> <p>19 MR. MARKO: Objection, foundation.</p> <p>20 A. Yes.</p> <p>21 BY MR. ACHO:</p> <p>22 Q. Okay. And you did agree to give him honest feedback</p> <p>23 whenever you saw discrimination or anything improper,</p> <p>24 you gave him that feedback, correct?</p> <p>25 MR. MARKO: Objection to form.</p>	<p style="text-align: right;">Page 142</p> <p>1 A. Yes.</p> <p>2 Q. And you did like the mayor?</p> <p>3 A. Yes.</p> <p>4 Q. Other than when you asked for a raise and he refused,</p> <p>5 you stopped liking him?</p> <p>6 MR. MUNGO: Assuming facts not in evidence.</p> <p>7 A. No.</p> <p>8 BY MR. ACHO:</p> <p>9 Q. So you still like him?</p> <p>10 MR. MARKO: Whenever someone makes an</p> <p>11 objection, let them make it, wait until they're done</p> <p>12 and you can answer it.</p> <p>13 BY MR. ACHO:</p> <p>14 Q. So you still like Mayor Fouts?</p> <p>15 MR. MARKO: As we sit here today?</p> <p>16 MR. ACHO: Yes.</p> <p>17 A. I have no animus against the mayor.</p> <p>18 BY MR. ACHO:</p> <p>19 Q. Did you hear my question?</p> <p>20 A. Yes.</p> <p>21 MR. MARKO: He answered it.</p> <p>22 BY MR. ACHO:</p> <p>23 Q. I didn't ask whether you had animus. I asked if you</p> <p>24 like him?</p> <p>25 MR. MARKO: Objection, asked and answered.</p>

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<p style="text-align: right;">Page 143</p> <p>1 BY MR. ACHO: 2 Q. What is the answer? 3 A. There are things I like about him, things I'm 4 disappointed about. 5 Q. But you still like him even though you're 6 disappointed? 7 MR. MARKO: Asked and answered. 8 MR. MUNGO: He just answered the question. 9 BY MR. ACHO: 10 Q. Answer anyway. 11 MR. MUNGO: Objection, asked and answered. 12 A. I don't have a different answer. 13 BY MR. ACHO: 14 Q. Just so I'm clear, how many different people did you 15 tell you liked Mayor Fouts? 16 A. I have no idea. 17 MR. MARKO: Objection, asked and answered. 18 BY MR. ACHO: 19 Q. 5, 10, 1, how many? 20 A. I have no idea, sir. 21 Q. But you told a lot of people, didn't you? 22 A. I don't know what you mean by a lot. 23 Q. Well, more than 5? 24 MR. MUNGO: Objection, asked and answered. 25 A. I may have.</p>	<p style="text-align: right;">Page 145</p> <p>1 have been for you? 2 A. It varied, sir. 3 Q. Give me a ballpark? 4 A. It could have been as little as \$7,000 and as much as 5 21. 6 Q. Well, are you testifying under oath that you didn't 7 ask for \$21,000? 8 MR. MARKO: Objection, he answered that 9 question. 10 A. I've answered that question. 11 BY MR. ACHO: 12 Q. No, I want you to answer what I just asked you. 13 A. Okay. Ask me again. 14 Q. Are you denying under oath you asked the mayor for a 15 \$21,000 increase to your pay? 16 MR. MARKO: Asked and answered. 17 A. Yes. 18 BY MR. ACHO: 19 Q. You're denying that? 20 A. Yes. 21 Q. So if people come forward and say I was there and he 22 wanted between 20 and 30,000 more and then he said 23 I'll take 21,000, you would say that's make believe? 24 A. I would say they are lying. 25 Q. By the way, how many times did you meet with Plaintiff</p>
<p style="text-align: right;">Page 144</p> <p>1 BY MR. ACHO: 2 Q. And you've even told Mayor Fouts to his face, multiple 3 times, I like working with you, true? 4 A. Up to a certain point, yes. 5 Q. Up until the time you asked for a \$21,000 raise and he 6 refused? 7 MR. MUNGO: Objection, assuming facts not 8 in evidence. 9 A. No. 10 BY MR. ACHO: 11 Q. Did you ask for a \$21,000 raise? 12 A. No. 13 Q. How much did you ask for? 14 A. I asked for compensation for assuming an altogether 15 different set of responsibilities that required full 16 time and attention. 17 Q. How much did you ask for? 18 A. Comparable with other directors. 19 Q. How much more money were you asking to be paid by the 20 City of Warren? 21 MR. MUNGO: Objection, asked and answered. 22 A. I asked to be compensated at the same rate as other 23 directors. 24 BY MR. ACHO: 25 Q. I don't know what that is. How much money would that</p>	<p style="text-align: right;">Page 146</p> <p>1 DeSheila Howlett when you were employed by the City of 2 Warren? 3 A. Never. 4 Q. How many times did you speak with Plaintiff DeSheila 5 Howlett when you were employed by the City of Warren? 6 MR. MUNGO: Objection, relevance. 7 A. None. 8 BY MR. ACHO: 9 Q. Did DeSheila Howlett ever make any complaints to you 10 about the City of Warren in any nature while you were 11 employed at the City of Warren? 12 A. No. 13 Q. How many times have you met with Plaintiff DeSheila 14 Howlett since you left the City of Warren? 15 A. None. 16 Q. How many times have you spoken with Plaintiff DeSheila 17 Howlett since you left your employment with the City 18 of Warren? 19 A. None. 20 Q. So you really didn't know her, did you? 21 A. No. 22 Q. You never met her, did you? 23 A. That's correct. 24 Q. So everything you know about her is hearsay? 25 MR. MARKO: Objection, that's a legal</p>

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<p style="text-align: right;">Page 147</p> <p>1 conclusion that he's not capable of answering. If you 2 want to ask it in a different form then -- 3 MR. ACHO: He knows what hearsay is. 4 BY MR. ACHO: 5 Q. You've been involved in court cases, haven't you? 6 A. To some extent. 7 Q. You know what hearsay is, don't you? 8 MR. MARKO: All right. Counsel -- 9 BY MR. ACHO: 10 Q. Do you know what hearsay is, yes or no? 11 MR. MUNGO: You are badgering the witness. 12 A. I am uncertain as to the definition. 13 BY MR. ACHO: 14 Q. What's your -- what is your belief, because you've 15 been -- I went through your bio, you've got 20, 25 16 years dealing with litigation, complaints, all these 17 kinds of things, isn't that true? 18 MR. MARKO: Well, objection to form, all 19 these kinds of things. Counsel, I don't even know 20 what that means. 21 MR. MUNGO: What's the relevance of that? 22 Objection, relevance, badgering the witness. 23 BY MR. ACHO: 24 Q. Go ahead. 25 A. Not from a legal perspective, no.</p>	<p style="text-align: right;">Page 149</p> <p>1 Q. In 25 years, as you sit here today, you are telling 2 the court, I don't know what hearsay is? 3 MR. MUNGO: Counsel, you are badgering this 4 witness. 5 MR. MARKO: And it mischaracterizes the 6 testimony and judges can't even agree on the legal 7 definition of hearsay as it applies in different 8 contexts. 9 Do you understand the question? 10 THE WITNESS: I don't understand the 11 question. 12 BY MR. ACHO: 13 Q. Okay. I will try to help you. 14 MR. MARKO: Well, let's not be demeaning, 15 Counsel, because that's the way that I just took what 16 you said. 17 MR. ACHO: Well, I'm sorry that you took it 18 that way. I'm speaking respectfully to this man. 19 MR. MARKO: I don't think so. 20 MR. MUNGO: That is not true. You have 21 been nasty from the very beginning. 22 MR. ACHO: Have I been respectful? 23 MR. VINSON: Respectful, of course. 24 BY MR. ACHO: 25 Q. You said you know what personal knowledge is, correct?</p>
<p style="text-align: right;">Page 148</p> <p>1 Q. You've never been involved in any legal matter, 2 whether it's a grievance, a charge, an EEOC charge, 3 you have not -- civil rights, you have not been 4 involved in those? 5 A. Yes, I have. 6 Q. Aren't those legal-type things, yes or no? 7 A. I define them as advocacy. 8 Q. Okay. You've been involved in advocacy, correct? 9 A. Yes. 10 Q. And you know what hearsay is and you know what 11 personal knowledge is, correct, you do, don't you? 12 MR. MUNGO: Objection, assuming facts not 13 in evidence. 14 A. I know what -- you said knowledge -- would you 15 rephrase what you said? 16 BY MR. ACHO: 17 Q. I'd be happy to. You know what personal knowledge is, 18 don't you? 19 A. Yes. 20 Q. And you know what hearsay is, don't you? 21 A. That I'm uncertain of. 22 Q. Do you know the difference or are you sitting here 23 today -- and how many years have you been involved in 24 advocacy and all these things, how many years? 25 A. Nearly 25 years.</p>	<p style="text-align: right;">Page 150</p> <p>1 A. Correct. 2 Q. You have no personal knowledge about DeSheila Howlett, 3 do you? 4 MR. MARKO: I'm going to object to form. 5 Go ahead, to the extent that you can. 6 A. I know about the lawsuit. 7 BY MR. ACHO: 8 Q. Sir -- 9 MR. MARKO: Let him finish. 10 MR. ACHO: No. No, we're go to stay on my 11 question, not yours. 12 MR. MARKO: Hold on. You get to ask the 13 questions but you have to take the answer. 14 MR. MUNGO: You're badgering the witness. 15 MR. MARKO: And you're talking over him. 16 Let him answer. 17 BY MR. ACHO: 18 Q. Sir, let me help you. Personal knowledge is when you 19 know something for a fact, that you're there or you've 20 seen something. Do you understand that? 21 A. Yes. 22 Q. You did not see anything regarding DeSheila Howlett, 23 did you? 24 A. No. 25 MR. MUNGO: Objection, you are assuming</p>

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<p style="text-align: right;">Page 151</p> <p>1 facts not in evidence. 2 BY MR. ACHO: 3 Q. You had no involvement with her, personally, her, did 4 you? 5 A. No. 6 Q. You never investigated any claims she made to you, did 7 you? 8 A. Yes. 9 Q. She -- I thought you told us under oath she never made 10 any claims to you? Either she made claims to you or 11 she didn't. 12 MR. MARKO: What's the question? Did she 13 make a claim to him? 14 MR. ACHO: Yes. 15 MR. MARKO: I'm now confused by your 16 question. 17 MR. ACHO: Do you want me to help you now? 18 MR. MARKO: Well, we might need you to. 19 BY MR. ACHO: 20 Q. Sir, didn't you tell us under oath 10 minutes ago -- 21 MR. MARKO: The record speaks for itself, 22 Counsel. 23 BY MR. ACHO: 24 Q. Didn't you tell us 10 minutes ago under oath that 25 DeSheila Howlett never made a complaint to you?</p>	<p style="text-align: right;">Page 153</p> <p>1 Go ahead. 2 MR. ACHO: Read the question back. 3 MR. MARKO: Go ahead. 4 MR. ACHO: This is my deposition. Read the 5 question back. 6 MR. MARKO: He's giving an answer. You 7 can't cut him off. 8 MR. ACHO: I want it read back. 9 MR. MARKO: Let her read it and you give 10 your answer. 11 (The following requested portion of the 12 record was read by the reporter at 13 3:18 p.m.: 14 Q. Okay. Now, just so we're clear, you're 15 not talking about DeSheila Howlett, you're 16 talking about investigating Ms. Beyer, 17 correct?) 18 MR. MARKO: Go ahead, give an answer. 19 A. Ms. Beyer's behavior with Ms. Howlett. 20 BY MR. ACHO: 21 Q. Okay. I understand. But you didn't do the primary 22 investigation, that was done by others in the City of 23 Warren, not you, correct? 24 A. That's correct. 25 Q. You were just present during the discussions, correct?</p>
<p style="text-align: right;">Page 152</p> <p>1 A. Yes. 2 Q. Okay. So you had no personal knowledge of what 3 happened to DeSheila Howlett where you were present or 4 you were involved? 5 A. I was involved to the extent that I had to investigate 6 and help determine a discipline for Ms. Beyer. 7 Q. Okay. Ms. Beyer. You were dealing with Ms. Beyer? 8 A. Yes. 9 Q. Okay. Now, just so we're clear, you're not talking 10 about DeSheila Howlett, you're talking about 11 investigating Ms. Beyer, correct? 12 MR. MUNGO: Objection, you're 13 mischaracterizing his testimony. 14 BY MR. ACHO: 15 Q. Did you hear my question? 16 MR. MARKO: Let him answer. 17 BY MR. ACHO: 18 Q. Did you hear my question? 19 MR. MARKO: Counsel, he's attempting to 20 answer. 21 MR. ACHO: Hold on. Repeat the question. 22 MR. MARKO: No. No. No, what's happening 23 is he's starting to answer your question and you're 24 cutting him off and you're inserting new questions so 25 he cannot give an answer.</p>	<p style="text-align: right;">Page 154</p> <p>1 A. Yes, and tasked -- yes, and tasked with helping to 2 identify an appropriate discipline for Ms. Beyer based 3 on Ms. Howlett's representation of her. 4 Q. Okay. But you had no personal knowledge of 5 Ms. Howlett, you were just dealing with what you were 6 advised by other people, correct? 7 A. I was dealing with what was shared with me by other 8 people. 9 Q. Which is hearsay, isn't it, based upon your 10 experience? 11 MR. MARKO: Objection, that calls for a 12 legal conclusion. 13 BY MR. ACHO: 14 Q. Go ahead. 15 A. I was presented with information that Ms. Beyer had 16 admitted to using the N word in the presence of 17 DeSheila Howlett. 18 Q. Yeah. So you didn't really have to investigate that, 19 she admitted it, correct? 20 A. There's still some aspect that would need to be 21 investigated. 22 Q. She admitted it. 23 MR. MUNGO: Objection, argumentative. 24 MR. MARKO: There's no question there. 25 THE WITNESS: Okay.</p>

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<p style="text-align: right;">Page 155</p> <p>1 BY MR. ACHO:</p> <p>2 Q. Okay. Just so I'm clear, this individual who was</p> <p>3 disciplined, who made the admission, and then it was</p> <p>4 up to the City to decide what the discipline would be,</p> <p>5 correct?</p> <p>6 A. Correct.</p> <p>7 Q. Did you recommend termination?</p> <p>8 A. No.</p> <p>9 Q. What discipline did you recommend?</p> <p>10 A. Two weeks unpaid suspension.</p> <p>11 Q. That's what you recommended?</p> <p>12 A. Yes.</p> <p>13 MR. MARKO: Asked and answered.</p> <p>14 BY MR. ACHO:</p> <p>15 Q. What did the City do --</p> <p>16 A. Yes.</p> <p>17 Q. -- didn't they give her two weeks unpaid suspension,</p> <p>18 yes or no?</p> <p>19 A. Eventually, yes.</p> <p>20 Q. Thank you. Now, have you ever made a complaint to the</p> <p>21 United States Department of Justice about any action,</p> <p>22 activity or conduct by the City of Warren?</p> <p>23 A. No.</p> <p>24 Q. Have you ever made a complaint to the United States</p> <p>25 Department of Justice about any action, activity or</p>	<p style="text-align: right;">Page 157</p> <p>1 Green?</p> <p>2 A. No.</p> <p>3 Q. Have you ever contacted United States Department of</p> <p>4 Justice about any action, activity or conduct by any</p> <p>5 employee by the City of Warren?</p> <p>6 A. No.</p> <p>7 Q. Have you ever made a complaint to the United States</p> <p>8 Equal Employment Opportunity Commission about any</p> <p>9 action or activity or conduct by the City of Warren?</p> <p>10 A. No.</p> <p>11 Q. Have you ever made a complaint to United States Equal</p> <p>12 Employment Opportunity Commission about any action,</p> <p>13 activity or conduct by the City of Warren Mayor Fouts?</p> <p>14 A. I've never made no such complaint.</p> <p>15 Q. Have you ever made a complaint to the United States</p> <p>16 Equal Employment Opportunity Commission about any</p> <p>17 action, activity or conduct by the City of Warren's</p> <p>18 former police commissioner, Green?</p> <p>19 A. I've made no such complaint.</p> <p>20 Q. Have you ever made a complaint to the United States</p> <p>21 Equal Employment Opportunity Commission about any</p> <p>22 action, activities or conduct by any employee of the</p> <p>23 City of Warren?</p> <p>24 A. I've made no such complaint.</p> <p>25 Q. Have you ever contacted, even contacted, the United</p>
<p style="text-align: right;">Page 156</p> <p>1 conduct by the City of Warren Mayor Fouts?</p> <p>2 A. No.</p> <p>3 Q. Have you ever made a complaint to the United States</p> <p>4 Department of Justice about any action, activity or</p> <p>5 conduct by the City of Warren's former police</p> <p>6 commissioner, Green?</p> <p>7 A. No.</p> <p>8 Q. Have you ever made a complaint to the United States</p> <p>9 Department of Justice about any action, activities or</p> <p>10 conduct by any employee of the City of Warren?</p> <p>11 A. No.</p> <p>12 MR. MARKO: Objection to form and use of</p> <p>13 the word complaint and calls for a legal conclusion.</p> <p>14 BY MR. ACHO:</p> <p>15 Q. Have you ever contacted the United States Department</p> <p>16 of Justice about any action, activity or conduct by</p> <p>17 the City of Warren?</p> <p>18 A. No.</p> <p>19 Q. Have you ever contacted the United States Department</p> <p>20 of Justice about any action, activity or conduct by</p> <p>21 the City of Warren Mayor Fouts?</p> <p>22 A. No.</p> <p>23 Q. Have you ever contacted the United States Department</p> <p>24 of Justice about any action, activities or conduct by</p> <p>25 the City of Warren's former police commissioner,</p>	<p style="text-align: right;">Page 158</p> <p>1 States Equal Employment Opportunity Commission about</p> <p>2 any action, activities or conduct by the City of</p> <p>3 Warren?</p> <p>4 A. Yes.</p> <p>5 Q. When?</p> <p>6 A. I would think it would be somewhere around, I believe,</p> <p>7 the second week in August.</p> <p>8 Q. Of what year?</p> <p>9 A. Of 2017.</p> <p>10 Q. Okay. Have you ever contacted the United States Equal</p> <p>11 Employment Opportunity Commission about any action or</p> <p>12 activity or conduct by the City of Warren Mayor Fouts?</p> <p>13 A. No.</p> <p>14 Q. Have you ever contacted the United States Equal</p> <p>15 Opportunity Commission about any action, activities or</p> <p>16 conduct by the City of Warren's former police</p> <p>17 commissioner, Green?</p> <p>18 A. No.</p> <p>19 Q. Have you ever contacted the United States Equal</p> <p>20 Employment Opportunity Commission about any action,</p> <p>21 activity or conduct by any employee of the City of</p> <p>22 Warren?</p> <p>23 A. Yes.</p> <p>24 Q. When?</p> <p>25 A. It would be that same time period.</p>

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<p style="text-align: right;">Page 159</p> <p>1 Q. Okay. Have you ever made a complaint to the United 2 States Department of Labor about any action, activity 3 or conduct by the City of Warren? 4 A. No. 5 Q. Have you ever made a complaint to United States 6 Department of Labor about any action, activity or 7 conduct by the City of Warren Mayor Fouts? 8 A. No. 9 Q. Have you ever made a complaint to the United States 10 Department of Labor about any action, activity or 11 conduct by the City of Warren's former police 12 commissioner, Green? 13 A. No. 14 Q. Have you ever made a complaint to the United States 15 Department of Labor about any action, activity or 16 conduct by any employee of the City of Warren? 17 A. No. 18 Q. Have you ever contacted the United States Department 19 of Labor about any action, activity or conduct by the 20 City of Warren? 21 A. No. 22 Q. Have you ever contacted the United States Department 23 of Labor about any action, activity or conduct by the 24 City of Warren Mayor Fouts? 25 A. No.</p>	<p style="text-align: right;">Page 161</p> <p>1 A. No. 2 Q. Have you ever contacted any federal elected official 3 or employee about any action, activity or conduct by 4 the City of Warren? 5 A. Yes. 6 Q. Who? 7 A. Lolita Davis. 8 Q. And when? 9 A. During that same time period that I referenced 10 earlier, around the first or second week of August. 11 Q. Okay. Have you ever contacted any federal elected 12 official or employee about any action, activity or 13 conduct by the City of Warren Mayor Fouts? 14 A. Yes. 15 Q. When? 16 A. That same time period. 17 Q. Have you ever contacted any federal elected official 18 employee about any action, activity or conduct by the 19 City of Warren's former police commissioner, Green? 20 A. No. 21 Q. Have you ever contacted any federal elected official, 22 employee, about any action, activity or conduct by any 23 employee of the City of Warren? 24 A. Would you repeat that question again, please? 25 Q. Sure. Have you ever contacted any federal elected</p>
<p style="text-align: right;">Page 160</p> <p>1 Q. Have you ever contacted the United States Department 2 of Labor about any action, activities or conduct by 3 the City of Warren's police commissioner, former 4 commissioner, Green? 5 A. No. 6 Q. Have you ever contacted the United States Department 7 of Labor about any action, activity or conduct by any 8 employee of the City of Warren? 9 A. No. 10 Q. Have you ever made a complaint to any federal elected 11 official or employee about any action, activity or 12 conduct by the City of Warren? 13 A. I've made no such complaint. 14 Q. Have you ever made a complaint to any federal elected 15 official, employee, about any action, activity or 16 conduct by the City of Warren Mayor Fouts? 17 A. No. 18 Q. Have you ever made a complaint to any federal elected 19 official or employee about any action, activity or 20 conduct by the City's former police commissioner, 21 Green? 22 A. No. 23 Q. Have you ever made a complaint to any federal elected 24 official or employee about any action, activity or 25 conduct by any employee by the City of Warren?</p>	<p style="text-align: right;">Page 162</p> <p>1 official or employee about any action, activity or 2 conduct by any employee of the City of Warren? 3 A. If you consider the mayor an employee, yes, that same 4 time period. 5 Q. So you only made one complaint, is that right, just 6 one or is it more than one? 7 MR. MARKO: To the people that you've 8 enumerated? 9 BY MR. ACHO: 10 Q. Just answer my question. 11 You can ask him later. 12 MR. MARKO: Objection, vague, ambiguous and 13 objection to form. 14 A. Complaint, as in formal complaint? 15 BY MR. ACHO: 16 Q. Yes, you didn't do any? 17 A. I've not filed any formal complaints. 18 Q. Ever? 19 A. Ever. 20 Q. Against -- 21 A. Anyone. 22 Q. -- the City of Warren? 23 A. That's correct, but any of the agencies that you -- 24 Q. Okay. We have more. Have you ever made a complaint 25 to any federal agency about any action, activity or</p>

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<p style="text-align: right;">Page 163</p> <p>1 conduct by the City of Warren, any federal agency?</p> <p>2 MR. MARKO: Other than he's already</p> <p>3 testified to? Objection.</p> <p>4 A. I shared that with you. I have in certain instances.</p> <p>5 BY MR. ACHO:</p> <p>6 Q. But no complaints you've said?</p> <p>7 A. Yes.</p> <p>8 Q. No complaints?</p> <p>9 A. Correct.</p> <p>10 Q. We'll have more and then we'll get back to that.</p> <p>11 Okay. So you've never made any formal complaints</p> <p>12 about Warren's Mayor Fouts, have you --</p> <p>13 A. That's correct.</p> <p>14 Q. -- or of former Police Commissioner Green, you've</p> <p>15 never made any formal complaints --</p> <p>16 A. That's correct.</p> <p>17 Q. -- while you were at the City of Warren or since,</p> <p>18 correct?</p> <p>19 A. That's correct.</p> <p>20 Q. Okay. Have you even contacted any federal agency</p> <p>21 about the City of Warren?</p> <p>22 A. During my --</p> <p>23 Q. Employment?</p> <p>24 A. Yes.</p> <p>25 Q. In August?</p>	<p style="text-align: right;">Page 165</p> <p>1 Q. -- so you'll see where I'm going.</p> <p>2 A. Uh-huh.</p> <p>3 Q. You have to say yes.</p> <p>4 A. Yes.</p> <p>5 Q. Have you ever made a complaint to the Michigan</p> <p>6 Attorney General about any action, activity or the</p> <p>7 conduct by the City of Warren?</p> <p>8 A. No.</p> <p>9 Q. Have you ever made a complaint to the Michigan</p> <p>10 Attorney General about any action, activity or conduct</p> <p>11 by the City of Warren Mayor Fouts?</p> <p>12 A. No.</p> <p>13 Q. Have you ever made a complaint to the Michigan</p> <p>14 Attorney General about any action, activity or conduct</p> <p>15 by the City of Warren's former police commissioner,</p> <p>16 Green?</p> <p>17 A. No.</p> <p>18 Q. Have you ever made a complaint to the Michigan</p> <p>19 Attorney General about any action, activity or conduct</p> <p>20 by any employee of the City of Warren?</p> <p>21 A. No.</p> <p>22 Q. Have you even contacted the Michigan Attorney General</p> <p>23 about any action, activity or conduct by the City of</p> <p>24 Warren?</p> <p>25 A. No.</p>
<p style="text-align: right;">Page 164</p> <p>1 A. Yes.</p> <p>2 Q. And who was it you contacted?</p> <p>3 A. Lolita Davis.</p> <p>4 Q. From where?</p> <p>5 A. EEOC.</p> <p>6 Q. And was this dealing with racial discrimination or no?</p> <p>7 Was it racial or no?</p> <p>8 A. No.</p> <p>9 Q. So I'm going to ask you a lot more questions. I just</p> <p>10 want to make sure I understand, you have never made</p> <p>11 any formal complaint to any federal agencies about</p> <p>12 Mayor Fouts, any employee of the City of Warren,</p> <p>13 including Green, about racial discrimination, correct?</p> <p>14 A. That's correct.</p> <p>15 Q. And no complaints about anything at all, you've only</p> <p>16 made a contact, you never made a formal complaint to</p> <p>17 any federal agency, correct?</p> <p>18 MR. MUNGO: Objection.</p> <p>19 MR. MARKO: Objection to form.</p> <p>20 BY MR. ACHO:</p> <p>21 Q. Is that correct?</p> <p>22 A. Yes.</p> <p>23 Q. Now. Let's go to the State level. I'll ask you the</p> <p>24 same questions of the various State agencies, okay --</p> <p>25 A. Okay.</p>	<p style="text-align: right;">Page 166</p> <p>1 Q. Have you even contacted the Michigan Attorney General</p> <p>2 about any action, activity or conduct by the City of</p> <p>3 Warren Mayor Fouts?</p> <p>4 A. No.</p> <p>5 Q. Have you even contacted the Michigan Attorney General</p> <p>6 about any action, activity or conduct by the City of</p> <p>7 Warren's former police commissioner, Green?</p> <p>8 A. No.</p> <p>9 Q. Have you ever contacted the Michigan Attorney General</p> <p>10 about any action, activity or conduct by any employee</p> <p>11 of the City of Warren?</p> <p>12 A. No.</p> <p>13 Q. Have you ever made a complaint to the Michigan</p> <p>14 Department of Civil Rights about any action, activity</p> <p>15 or conduct of the City of Warren?</p> <p>16 A. No.</p> <p>17 Q. Have you ever made a complaint to the Michigan</p> <p>18 Department of Civil Rights about any action, activity</p> <p>19 or conduct by the City of Warren Mayor Fouts?</p> <p>20 A. No.</p> <p>21 Q. Have you ever made a complaint to the Michigan</p> <p>22 Department of Civil Rights about any action, activity</p> <p>23 or conduct by the City of Warren's former police</p> <p>24 commissioner, Green?</p> <p>25 A. No.</p>

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<p style="text-align: right;">Page 167</p> <p>1 Q. Have you ever made a complaint to the Michigan 2 Department of Civil Rights about any action, activity 3 or conduct by any employee of the City of Warren? 4 A. No. 5 Q. Have you even contacted the Michigan Department of 6 Civil Rights about any action, activity or conduct by 7 the City of Warren? 8 A. Yes. 9 Q. When? 10 A. That same time period, that same time period of 11 August, it was like -- 12 Q. And you contacted this Lolita? 13 A. No, that would have been another -- Anthony Lewis. 14 Q. Okay. And this was not racial discrimination, 15 correct? 16 A. No. 17 Q. What discrimination or what was it, what was the 18 claim, just the basis of the claim? 19 A. I'm sorry, you asked if I contacted them and I did 20 contact them to facilitate a training. 21 Q. Oh, for training? 22 A. To facilitate setting up a training. 23 Q. Let's change the question. Have you ever contacted 24 the Michigan Department of Civil Rights about any 25 improper action, activity or conduct by the City of</p>	<p style="text-align: right;">Page 169</p> <p>1 conduct by the former police commissioner of Warren, 2 Green? 3 A. No. 4 Q. Have you ever made a complaint to the Michigan 5 Department of Labor about any action, activity or 6 conduct by any employee of City of Warren? 7 A. No. 8 Q. Have you ever contacted, even contacted, the Michigan 9 Department of Labor about any action, activity or 10 conduct by the City of Warren? 11 A. No. 12 Q. Have you even contacted the Michigan Department of 13 Labor about any action, activity or conduct about the 14 City of Warren Mayor Fouts? 15 A. No. 16 Q. Have you even contacted the Michigan Department of 17 Labor about any action, activity or conduct by the 18 City of Warren's police commissioner, Green? 19 A. No. 20 Q. Have you even contacted the Michigan Department of 21 Labor about any action, activity or conduct by any 22 employee of the City of Warren? 23 A. No. 24 Q. Okay. Have you ever made a complaint to any elected 25 official of the State of Michigan or an employee about</p>
<p style="text-align: right;">Page 168</p> <p>1 Warren? 2 A. No. 3 Q. Have you even contacted the Michigan Department of 4 Civil Rights about any improper action or activity or 5 conduct by the City of Warren Mayor Fouts? 6 A. No. 7 Q. Have you even contacted the Michigan Department of 8 Civil Rights about any improper action, activity or 9 conduct by the City of Warren's former police 10 commissioner, Green? 11 A. No. 12 Q. Have you even contacted the Michigan Department of 13 Civil Rights about any improper action, activity or 14 conduct by any employee of the City of Warren? 15 A. No. 16 Q. Have you ever made a complaint to the Michigan 17 Department of Labor about any action, activity or 18 conduct by the City of Warren? 19 A. No. 20 Q. Have you ever made a complaint to the Michigan 21 Department of Labor about any action, activity or 22 conduct on the part of the City of Warren Mayor Fouts? 23 A. No. 24 Q. Have you ever made a complaint to the Michigan 25 Department of Labor about any action, activity or</p>	<p style="text-align: right;">Page 170</p> <p>1 any action or activity or conduct of the City of 2 Warren? 3 A. No. 4 Q. Have you ever made a complaint to any elected official 5 of the State of Michigan or an employee about any 6 actions, activity or conduct by the City of Warren 7 Mayor Fouts? 8 A. No. 9 Q. Have you ever made a complaint to any State of 10 Michigan elected official or employee about any 11 action, activity or conduct on the part of the former 12 police commissioner, Green? 13 A. No. 14 Q. Have you ever made a complaint to any State of 15 Michigan elected official or employee about any 16 action, activity or conduct by any employee of the 17 City of Warren? 18 A. No. 19 Q. Have you ever contacted any State of Michigan 20 official, elected, or employee, about any action, 21 activity or conduct by the City of Warren? 22 A. No. 23 Q. Have you ever contacted any Michigan state elected 24 official, employee, about any action, activity or 25 conduct by the City of Warren Mayor Fouts?</p>

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<p style="text-align: right;">Page 171</p> <p>1 A. No.</p> <p>2 Q. Have you ever contacted any Michigan elected official,</p> <p>3 employee, about any action, activity or conduct by the</p> <p>4 City of Warren's former police commissioner, Green?</p> <p>5 A. No.</p> <p>6 Q. Have you even contacted the Michigan -- any Michigan</p> <p>7 elected official or any employee about any action,</p> <p>8 activity or conduct by any employee of the City of</p> <p>9 Warren?</p> <p>10 A. No.</p> <p>11 Q. Have you ever made a complaint to the Warren Police</p> <p>12 and Fire Civil Service Commission about any action,</p> <p>13 activity or conduct by the City of Warren?</p> <p>14 A. No.</p> <p>15 Q. Have you ever made a complaint to the Warren Police,</p> <p>16 Fire and Civil Service Commission about any action,</p> <p>17 activity or conduct by the City of Warren Mayor Fouts?</p> <p>18 A. No.</p> <p>19 Q. Have you ever made a complaint to the Warren Police,</p> <p>20 Fire and Civil Service Commission about any action,</p> <p>21 activity or conduct by the City's former police</p> <p>22 commissioner, Green?</p> <p>23 A. No.</p> <p>24 Q. Have you ever made a complaint to the Warren Police,</p> <p>25 Fire and Civil Service Commission about any action or</p>	<p style="text-align: right;">Page 173</p> <p>1 MR. MUNGO: It assumes facts not in</p> <p>2 evidence. You're mischaracterizing his testimony,</p> <p>3 sir.</p> <p>4 BY MR. ACHO:</p> <p>5 Q. We know what you said. All right. We know what you</p> <p>6 said. Do you know what you said?</p> <p>7 A. Yes.</p> <p>8 Q. You've never filed any complaints, did you?</p> <p>9 A. Not with any federal, State --</p> <p>10 MR. MARKO: Let him answer and not --</p> <p>11 A. Not any federal agency, representative of any federal</p> <p>12 agency, nor with the State, nor with the Michigan</p> <p>13 Department of Civil Rights, nor with the EEOC, I've</p> <p>14 never filed any formal complaints with any of those</p> <p>15 agencies about any activities with the City of Warren.</p> <p>16 BY MR. ACHO:</p> <p>17 Q. Now, the only thing you did is on one of them you</p> <p>18 contacted them, is all you said?</p> <p>19 MR. MARKO: Objection, that</p> <p>20 mischaracterizes his testimony.</p> <p>21 BY MR. ACHO:</p> <p>22 Q. Go ahead. Correct me if I'm wrong, you contacted, not</p> <p>23 complained, you contacted the EEOC in August of 2017?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. Tell us about that.</p>
<p style="text-align: right;">Page 172</p> <p>1 activity or conduct by any employee of the City of</p> <p>2 Warren?</p> <p>3 A. No.</p> <p>4 Q. So you've never filed any complaints with anybody, not</p> <p>5 a -- any federal agency, no State agency, no federal</p> <p>6 elected officials, no federal employees, no State</p> <p>7 elected employees, no State elected officials, no</p> <p>8 State employees, about the City of Warren Mayor Fouts,</p> <p>9 former commissioner, Green, or any employee of the</p> <p>10 City of Warren?</p> <p>11 MR. MARKO: Objection to form, compound,</p> <p>12 ambiguous.</p> <p>13 Did you understand the question?</p> <p>14 MR. MUNGO: And also it mischaracterizes</p> <p>15 his testimony. The deponent has clearly said --</p> <p>16 MR. ACHO: Okay. Here we go. Here we go.</p> <p>17 Put this on the record. What he's trying to do is tip</p> <p>18 off the witness. Let's save time and --</p> <p>19 MR. MUNGO: Sir. Sir, in his previous</p> <p>20 sitting in this deposition he clearly said that he</p> <p>21 went to Mayor Fouts --</p> <p>22 MR. ACHO: Okay. You know what --</p> <p>23 MR. MUNGO: -- to complain --</p> <p>24 MR. ACHO: That's not my question. You</p> <p>25 know what --</p>	<p style="text-align: right;">Page 174</p> <p>1 A. I contacted them to apologize for the behavior of the</p> <p>2 mayor at the EEOC training where, in a disparaging</p> <p>3 way, he mocked persons with Tourette's syndrome.</p> <p>4 Q. That's it, that's all your involvement in federal or</p> <p>5 State agencies or the Civil Service Commission, that's</p> <p>6 it, correct?</p> <p>7 A. From a complaint standpoint, yes, sir.</p> <p>8 Q. Or even contact, because this was not a complaint, you</p> <p>9 said this was a contact, correct?</p> <p>10 MR. MARKO: Objection, that</p> <p>11 mischaracterizes his testimony.</p> <p>12 MR. ACHO: We got it.</p> <p>13 MR. MARKO: You said formal complaint.</p> <p>14 A. I contacted --</p> <p>15 BY MR. ACHO:</p> <p>16 Q. You told us --</p> <p>17 MR. MARKO: Let him answer.</p> <p>18 A. I contacted the agency to set up training for the</p> <p>19 City.</p> <p>20 BY MR. ACHO:</p> <p>21 Q. Thank you. All right. We're good. Now, I just want</p> <p>22 to understand something, you told us you're not a shy</p> <p>23 person so you speak up when you see anything, right?</p> <p>24 MR. MARKO: That's asked and answered.</p> <p>25 BY MR. ACHO:</p>

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<p style="text-align: right;">Page 175</p> <p>1 Q. True?</p> <p>2 A. Within discretion, yes.</p> <p>3 Q. Well, I guess I'm just kind of puzzled about</p> <p>4 something. You and the mayor spoke almost daily when</p> <p>5 you came in, right?</p> <p>6 A. Yes.</p> <p>7 Q. You spoke daily, you could tell him whatever you</p> <p>8 wanted, couldn't you?</p> <p>9 MR. MARKO: Objection to form.</p> <p>10 A. Yes, I was honest with him.</p> <p>11 MR. ACHO: Read the question back to the</p> <p>12 witness. I don't think he understood it.</p> <p>13 A. I didn't understand the context.</p> <p>14 MR. ACHO: Okay. Read it back to him.</p> <p>15 (The following requested portion of the</p> <p>16 record was read by the reporter at</p> <p>17 3:40 p.m.:</p> <p>18 Q. You spoke daily, you could tell him</p> <p>19 whatever you wanted, couldn't you?)</p> <p>20 A. No.</p> <p>21 BY MR. ACHO:</p> <p>22 Q. You couldn't speak your mind to him, yes or no? Yes</p> <p>23 or no?</p> <p>24 MR. MARKO: No. No. No. No.</p> <p>25 MR. MUNGO: You're badgering the witness.</p>	<p style="text-align: right;">Page 177</p> <p>1 time.</p> <p>2 MR. ACHO: How many objections so far in</p> <p>3 the first hour?</p> <p>4 LIEUTENANT BRADLEY: There's been several.</p> <p>5 MR. MARKO: They're not allowed to</p> <p>6 participate in this deposition. They can sit there</p> <p>7 and watch pursuant to Judge Berg's order, but you're</p> <p>8 not going to be asking them questions on the record</p> <p>9 and you're not going to have them participating in any</p> <p>10 manner or form.</p> <p>11 BY MR. ACHO:</p> <p>12 Q. Let me ask you something, didn't you tell the mayor, I</p> <p>13 enjoy working with you?</p> <p>14 MR. MARKO: Asked and answered.</p> <p>15 A. Yes.</p> <p>16 BY MR. ACHO:</p> <p>17 Q. You did?</p> <p>18 A. Yes.</p> <p>19 Q. And you could speak freely with the mayor, you could</p> <p>20 tell him what you believe, what you thought?</p> <p>21 A. You can't just pop off with a spontaneous response.</p> <p>22 I'm a little bit more deliberate in how I approach</p> <p>23 responding to people in front of me.</p> <p>24 Q. I'm not talking about responding. I didn't ask you</p> <p>25 about responding. I said you could speak your mind to</p>
<p style="text-align: right;">Page 176</p> <p>1 MR. MARKO: You don't have to -- you had</p> <p>2 answered the question fully and completely and</p> <p>3 truthfully. Don't let him dictate what your answers</p> <p>4 are, okay?</p> <p>5 THE WITNESS: Okay.</p> <p>6 MR. ACHO: But I will get my answer to my</p> <p>7 question.</p> <p>8 MR. MARKO: Maybe not to your liking.</p> <p>9 MR. MUNGO: Wait a minute. Mr. Acho, I</p> <p>10 object. You are attempting to intimidate and badger</p> <p>11 this witness, sir, and your tone is clearly reflective</p> <p>12 of that.</p> <p>13 MR. ACHO: You're raising your voice.</p> <p>14 MR. MUNGO: Well, I am expressing outrage</p> <p>15 at what you're trying to do to this witness. You have</p> <p>16 to stop doing that, sir. You cannot do that.</p> <p>17 Mr. Murray, I'd speak up if you feel you're</p> <p>18 being demeaned by this man.</p> <p>19 MR. MARKO: I concur.</p> <p>20 MR. ACHO: Hold on. He's not an attorney.</p> <p>21 MR. MARKO: I concur with Mr. Mungo's</p> <p>22 characterization.</p> <p>23 MR. ACHO: Oh, you do? How come you didn't</p> <p>24 say anything?</p> <p>25 MR. MARKO: I've been objecting the whole</p>	<p style="text-align: right;">Page 178</p> <p>1 the mayor, you could tell him what you thought, right?</p> <p>2 A. Speaking my mind, to me -- or maybe I need to get your</p> <p>3 definition of candid, speaking my mind and candid, how</p> <p>4 does that differ?</p> <p>5 Q. Same thing.</p> <p>6 MR. MARKO: Don't --</p> <p>7 BY MR. ACHO:</p> <p>8 Q. It's the same thing, sir. Do you understand my</p> <p>9 question now?</p> <p>10 MR. MARKO: Objection to form and --</p> <p>11 BY MR. ACHO:</p> <p>12 Q. Can you answer it now or do you need help?</p> <p>13 A. I could not spontaneously speak to the mayor without</p> <p>14 some degree of forethought.</p> <p>15 Q. Well, you knew you were going to see the mayor almost</p> <p>16 every day, right?</p> <p>17 A. No.</p> <p>18 Q. Most days, frequently?</p> <p>19 A. No.</p> <p>20 Q. How often did you see the mayor during the week?</p> <p>21 A. Quite often.</p> <p>22 Q. How many times during the week did you see him?</p> <p>23 A. Three or four times a week.</p> <p>24 Q. So if you're going to see him three to four times a</p> <p>25 week, you could think about what you wanted to say to</p>

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<p style="text-align: right;">Page 179</p> <p>1 him the next time you saw him, couldn't you?</p> <p>2 MR. MARKO: Objection --</p> <p>3 A. No.</p> <p>4 MR. MARKO: Objection, form and vague and,</p> <p>5 you know, Counsel, this demeaning and disrespectful</p> <p>6 behavior has got to stop, this is crazy, sir.</p> <p>7 MR. ACHO: Sir, what you said,</p> <p>8 respectfully, is incredulous. I asked him a simple</p> <p>9 question.</p> <p>10 Read the witness back the question and I</p> <p>11 want to see how it is that --</p> <p>12 MR. MARKO: I have a problem with your</p> <p>13 disrespectful and demeaning behavior during the</p> <p>14 deposition, that's what I was --</p> <p>15 MR. ACHO: And I don't like --</p> <p>16 MR. MARKO: It's your choice of words.</p> <p>17 MR. ACHO: Mr. Vinson, how do you feel?</p> <p>18 MR. VINSON: I think you are proceeding</p> <p>19 with the cross examination.</p> <p>20 MR. ACHO: Read the question back, please,</p> <p>21 to the witness.</p> <p>22 (The following requested portion of the</p> <p>23 record was read by the reporter at</p> <p>24 3:44 p.m.:</p> <p>25 Q. So if you're going to see him three to</p>	<p style="text-align: right;">Page 181</p> <p>1 you could have put it in a memo but you did not,</p> <p>2 correct?</p> <p>3 MR. MARKO: Objection to the form of the</p> <p>4 question.</p> <p>5 BY MR. ACHO:</p> <p>6 Q. Is that true?</p> <p>7 A. That's so broad, the circumstance would be so broad</p> <p>8 and so, no, I -- once it took me three weeks to talk</p> <p>9 to him about a particular subject.</p> <p>10 Q. I didn't ask you that, that's not my question. My</p> <p>11 question is real simple. You said you talked to the</p> <p>12 mayor about three to four times a week, correct?</p> <p>13 A. Yes.</p> <p>14 Q. And I asked you whether you could express your</p> <p>15 feelings, your beliefs, your impressions, to him. Do</p> <p>16 you remember that?</p> <p>17 A. Yes.</p> <p>18 Q. And you said, well, sometimes I need to collect my</p> <p>19 thoughts, words to that effect, correct?</p> <p>20 A. Yes.</p> <p>21 Q. So I said, well, you could put it in writing and you</p> <p>22 said, I have done that?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. Now, out of all the memos that I have seen, I</p> <p>25 did not see one memorandum before your date, memo of</p>
<p style="text-align: right;">Page 180</p> <p>1 four times a week, you could think about</p> <p>2 what you wanted to say to him the next time</p> <p>3 you saw him, couldn't you?)</p> <p>4 A. Possibly, yes.</p> <p>5 BY MR. ACHO:</p> <p>6 Q. Why do you say possibly?</p> <p>7 A. Because you never know what the mayor is going to say</p> <p>8 and usually the conversations are predominantly one</p> <p>9 way, the mayor speaking and you receiving.</p> <p>10 Q. But you could have prepared a memorandum of what you</p> <p>11 wanted to talk to the mayor about and give it to him,</p> <p>12 couldn't you?</p> <p>13 A. Yes, I did do that.</p> <p>14 Q. When you were resigning, correct?</p> <p>15 A. All throughout my tenure there.</p> <p>16 Q. All right. Just so I'm clear, so you have given the</p> <p>17 mayor quite a few memorandums?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. So we are clear, you were free to express</p> <p>20 anything you wanted to the mayor about what you</p> <p>21 observed or your beliefs or your feelings, correct?</p> <p>22 A. After forethought, yes.</p> <p>23 Q. Okay. So in the 11 months that you were there, okay,</p> <p>24 you had every opportunity to describe any areas that</p> <p>25 you believe were discriminatory in the City of Warren,</p>	<p style="text-align: right;">Page 182</p> <p>1 resignation --</p> <p>2 A. Uh-huh.</p> <p>3 Q. -- that said there was racial discrimination in the</p> <p>4 City of Warren, I didn't see one memo.</p> <p>5 MR. MARKO: Objection, there's no question.</p> <p>6 BY MR. ACHO:</p> <p>7 Q. You didn't write one, did you, before your letter of</p> <p>8 resignation, true?</p> <p>9 A. True.</p> <p>10 Q. Now, and you said DeSheila Howlett, she has no case,</p> <p>11 you told that to five people, all she's trying to do</p> <p>12 is get some money, she has no case. You are not</p> <p>13 denying under oath that you said that, are you?</p> <p>14 A. I did not say all of what you said.</p> <p>15 Q. We'll break it up. You said to multiple people, I</p> <p>16 counted like six, maybe there's more, DeSheila</p> <p>17 Howlett, she has no case. You have said that to</p> <p>18 multiple people, correct?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. Now, you also said she is just trying to get a</p> <p>21 payday?</p> <p>22 A. That's not correct.</p> <p>23 Q. Okay. Now, we've established that you had no personal</p> <p>24 knowledge about DeSheila Howlett, correct?</p> <p>25 A. Other than reading in a report the complaint and</p>

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<p style="text-align: right;">Page 183</p> <p>1 responding to information given to me by other city 2 officials. 3 Q. And after you did that you told them she has no case, 4 correct? 5 A. Yes. 6 Q. Okay. Now, aren't employees supposed to follow the 7 rules? 8 A. Yes. 9 Q. Is it important for employees to follow the rules of 10 their employer? 11 A. Yes. 12 Q. And doesn't the City of Warren have a right to expect 13 their employees to follow the rules? Yes or no? 14 A. I can't give an answer. 15 MR. MARKO: Objection. 16 BY MR. ACHO: 17 Q. Okay. So you are saying, I don't know whether the 18 City of Warren has a right to expect their employees 19 to follow the rules they set? 20 MR. MARKO: Objection, that 21 mischaracterizes the testimony. 22 Go ahead. 23 A. Some rules are inappropriately applied and, as such, 24 they should not be followed. 25 BY MR. ACHO:</p>	<p style="text-align: right;">Page 185</p> <p>1 in a memorandum that said this rule has to be changed 2 because it has disparate impact, you identified one 3 rule? 4 A. I did not. 5 Q. And you were there 11 months? 6 A. Yes. 7 Q. And you -- by the way, am I wrong, I read something 8 where within the first two months of your hire you 9 wanted a raise? 10 A. That's not correct. 11 Q. You didn't go to the mayor within the first two months 12 and say I want \$5,000 more? 13 A. No, sir, the mayor offered me a raise and put it in 14 writing himself. 15 Q. Within the first two months? 16 A. Yes, sir. 17 Q. Did you take it? 18 A. No, sir. 19 Q. You declined it? 20 A. It was never put into affect. 21 Q. Okay. So you're saying the mayor of Warren just said 22 I'm going to give you \$5,000 more and didn't do it? 23 A. I don't know anything about \$5,000. 24 Q. Well, how much? 25 A. I don't know. I don't recall. It may have been -- it</p>
<p style="text-align: right;">Page 184</p> <p>1 Q. I didn't ask you about the application, you didn't 2 hear that word in my question, did you? 3 A. It was in my answer. 4 Q. Did you hear it in my question? 5 A. In order for me to answer your question I had to use 6 the words that I did. 7 Q. You're saying how the rules are applied. I'm talking 8 about rules that a city sets, a city has a right to 9 set rules, correct? 10 A. Yes. 11 Q. The City of Warren has a right to set rules, correct? 12 A. To the extent they were not discriminatory, et cetera. 13 Q. Okay. Identify one rule where the City's rule in 14 Warren was discriminatory, give me one rule that you 15 can identify? 16 A. In terms of the application of the rule -- 17 Q. I didn't ask you about -- 18 MR. MARKO: Go ahead. Answer the question. 19 A. You can have a rule and it can be applied in such a 20 way where discrimination occurs, it's called disparate 21 impact, it's disparate impact where you can have rules 22 that on their face do not appear to be discriminatory 23 but can have a disparate impact. 24 BY MR. ACHO: 25 Q. Identify any rule of the City of Warren that you put</p>	<p style="text-align: right;">Page 186</p> <p>1 was substantially less than that but I don't recall 2 and I never asked the mayor, the mayor offered it to 3 me. 4 Q. Now, you've just puzzled me by something, I read 5 something, and bear with me -- do you remember how 6 much more money more you wanted in October and 7 November of 2017? 8 A. I wanted my compensation to be commensurate with -- 9 MR. MARKO: Asked and answered. 10 BY MR. ACHO: 11 Q. I didn't get the number. 12 MR. MARKO: You wrote it down, Counsel, and 13 I saw it. 14 BY MR. ACHO: 15 Q. I didn't get the number so can you help me with that? 16 MR. MARKO: Asked and answered. 17 BY MR. ACHO: 18 Q. How much money did you want before you would revoke 19 your resignation? 20 A. I asked to be made commensurate with the other 21 directors within the City government. 22 Q. I'm looking for a number. 23 MR. MARKO: Asked and answered. 24 MR. MUNGO: That's been asked and answered 25 some while back.</p>

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<p style="text-align: right;">Page 187</p> <p>1 BY MR. ACHO:</p> <p>2 Q. You must know how much money you wanted, didn't you,</p> <p>3 or are you telling us under oath, I didn't know how</p> <p>4 much I wanted?</p> <p>5 MR. MARKO: Objection, that</p> <p>6 mischaracterizes his testimony and it's been asked and</p> <p>7 answered.</p> <p>8 MR. MUNGO: And argumentative.</p> <p>9 BY MR. ACHO:</p> <p>10 Q. I want you to answer.</p> <p>11 A. I had no idea how much the mayor might determine my</p> <p>12 job responsibilities to be and I asked that it be made</p> <p>13 commensurate with other directors on the City's</p> <p>14 payroll.</p> <p>15 Q. How much were the other directors making?</p> <p>16 A. Anywhere from 75 and up.</p> <p>17 Q. So if I am to understand you correctly, if the mayor</p> <p>18 would have agreed to give you \$4,000 more you would</p> <p>19 have stayed at the City?</p> <p>20 A. No, sir.</p> <p>21 Q. If the mayor offered you \$10,000 more would you have</p> <p>22 stayed at the City?</p> <p>23 A. No, sir.</p> <p>24 Q. If the mayor offered you 20,000 would you have stayed</p> <p>25 at the City?</p>	<p style="text-align: right;">Page 189</p> <p>1 coordinator that you're aware of?</p> <p>2 A. Yes.</p> <p>3 Q. Where?</p> <p>4 A. Grand Rapids.</p> <p>5 Q. Okay. Is there any in the Detroit region that has a</p> <p>6 diversity coordinator?</p> <p>7 A. Not that I'm aware of.</p> <p>8 Q. Just so I'm clear, the City of Warren hires you to be</p> <p>9 the diversity coordinator for them, correct --</p> <p>10 A. Yes.</p> <p>11 Q. -- to attract minorities, right?</p> <p>12 A. As one element.</p> <p>13 Q. Sure. Please give me the names of all of the</p> <p>14 minorities you referred to the City of Warren Police</p> <p>15 Department, how many, give me their names?</p> <p>16 A. I can't possibly answer that question, sir, because I</p> <p>17 spoke with people all through my employment period, on</p> <p>18 the street, elsewhere. I cannot give you names.</p> <p>19 Q. Listen to me, please.</p> <p>20 A. You asked --</p> <p>21 Q. This is very specific. You referred no minority</p> <p>22 person to the City of Warren Police Department while</p> <p>23 you were employed there for 11 months, correct?</p> <p>24 MR. MARKO: That mischaracterizes his</p> <p>25 testimony.</p>
<p style="text-align: right;">Page 188</p> <p>1 A. No, sir.</p> <p>2 Q. If the mayor offered you 25,000 would you have stayed</p> <p>3 at the City?</p> <p>4 A. No, sir, because there were other things associated</p> <p>5 with it. You will read in my resignation letter that</p> <p>6 I asked the mayor to provide the appropriate staffing</p> <p>7 and resources so it was never about -- never about the</p> <p>8 money, it was about --</p> <p>9 MR. MARKO: Counsel, you're laughing and</p> <p>10 that's so inappropriate.</p> <p>11 MR. ACHO: I'm covering my mouth. I'm not</p> <p>12 laughing. No, I don't think it's funny.</p> <p>13 BY MR. ACHO:</p> <p>14 Q. You're saying it was never about the money?</p> <p>15 A. That's correct.</p> <p>16 Q. So if witnesses come forward and say that is exactly</p> <p>17 what you said --</p> <p>18 A. They would be lying and I expect them to lie because</p> <p>19 they're City employees. Why would they -- why would</p> <p>20 they refute whatever the mayor's position is?</p> <p>21 Q. Okay. By the way --</p> <p>22 A. It doesn't make sense.</p> <p>23 Q. You were brought in as a diversity coordinator?</p> <p>24 A. Yes.</p> <p>25 Q. Does any other city in Michigan have a diversity</p>	<p style="text-align: right;">Page 190</p> <p>1 A. No.</p> <p>2 BY MR. ACHO:</p> <p>3 Q. You can't think of one person, one person's name, that</p> <p>4 you referred to the City of Warren Police Department?</p> <p>5 A. That's correct.</p> <p>6 Q. Okay. How many people -- how many people do you</p> <p>7 believe you referred that were minorities?</p> <p>8 A. I would speak to people.</p> <p>9 Q. That's not my question.</p> <p>10 A. That's a referral.</p> <p>11 Q. Reread the question. Sir, do you know what referral</p> <p>12 means?</p> <p>13 A. Yes.</p> <p>14 Q. What?</p> <p>15 A. You talk to someone and encourage them to go and to</p> <p>16 apply for a position.</p> <p>17 Q. No. No, sir, that's not what I mean by referral. Let</p> <p>18 me give you --</p> <p>19 MR. MARKO: Explain to him what you mean</p> <p>20 when you ask a question that's vague.</p> <p>21 BY MR. ACHO:</p> <p>22 Q. A referral is when you get a person's name and you</p> <p>23 submit it to the City of Warren Police Department or</p> <p>24 the Police and Fire Civil Service Commission, you</p> <p>25 didn't give the Police and Fire Civil Service</p>

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<p style="text-align: right;">Page 191</p> <p>1 Commission even one minority name, did you?</p> <p>2 MR. MUNGO: Objection, assuming a fact</p> <p>3 that's not in evidence.</p> <p>4 A. That is not the protocol for -- for -- that is not the</p> <p>5 protocol for that.</p> <p>6 BY MR. ACHO:</p> <p>7 Q. I didn't ask you about the protocol. I asked you, did</p> <p>8 you give the Police and Fire Civil Service Commission</p> <p>9 the names of any candidates who were minorities for</p> <p>10 the police department, yes or no?</p> <p>11 MR. MARKO: Objection.</p> <p>12 A. I'm not allowed to do that because of the civil</p> <p>13 service process.</p> <p>14 BY MR. ACHO:</p> <p>15 Q. Okay. So how many people did you refer, using your</p> <p>16 words, to the Police and Fire Civil Service</p> <p>17 Commission, for the police department, how many?</p> <p>18 A. I spoke to people to encourage them to apply for the</p> <p>19 police and fire department.</p> <p>20 Q. I'm only talking about the police.</p> <p>21 A. To the police department?</p> <p>22 Q. How many applied?</p> <p>23 A. I have no idea.</p> <p>24 Q. Because you didn't know, because you did no follow up,</p> <p>25 did you? Did you call these people up and ask them,</p>	<p style="text-align: right;">Page 193</p> <p>1 service guidelines that have to be adhered to. I</p> <p>2 can't interfere on behalf of an applicant with either</p> <p>3 the civil service commission, the police and fire</p> <p>4 commission or the human resources department itself --</p> <p>5 Q. Have you ever read --</p> <p>6 A. -- it's called cronyism.</p> <p>7 Q. Have you ever read the City of Warren's Civil Service</p> <p>8 Commission Police and Fire Department's rules and</p> <p>9 regulations? Have you ever read this?</p> <p>10 A. I've given it a cursory review, yes.</p> <p>11 Q. So you've not read the full document?</p> <p>12 A. Yes.</p> <p>13 Q. You don't know, as you sit here, even though you've</p> <p>14 been in the city for 11 months, you don't know there's</p> <p>15 a prohibition from assisting applicants to make</p> <p>16 application, do you, you're not aware of it, are you,</p> <p>17 as you sit here today?</p> <p>18 A. Of a prohibition?</p> <p>19 Q. Yes.</p> <p>20 A. Yes, it's called cronyism.</p> <p>21 Q. So the civil service commission referrals would be</p> <p>22 cronyism, is that what you're saying?</p> <p>23 A. No, you asked me follow up, which means get involved</p> <p>24 in that person's potential hiring, which is -- which</p> <p>25 is inappropriate.</p>
<p style="text-align: right;">Page 192</p> <p>1 hey, did you apply? Did you do any follow up, yes or</p> <p>2 no?</p> <p>3 A. No. No.</p> <p>4 Q. Okay. You could have followed up with them, couldn't</p> <p>5 you --</p> <p>6 A. Yes.</p> <p>7 Q. -- but you chose not to?</p> <p>8 A. I did not.</p> <p>9 Q. Okay. So you don't know whether any people even</p> <p>10 applied to the police department because of your</p> <p>11 efforts as diversity coordinator?</p> <p>12 A. I did not know because it would have been</p> <p>13 inappropriate for me to ask the human resource</p> <p>14 department to give me the names of applicants.</p> <p>15 Q. But you could have called the applicants because you</p> <p>16 spoke to them --</p> <p>17 A. True.</p> <p>18 Q. -- but you didn't?</p> <p>19 A. That's true.</p> <p>20 Q. And you didn't facilitate them, you could have said,</p> <p>21 hey, I'll try to help you, you could have tried to</p> <p>22 help them?</p> <p>23 A. No, sir.</p> <p>24 Q. You couldn't have helped them?</p> <p>25 A. That would have been inappropriate. There are civil</p>	<p style="text-align: right;">Page 194</p> <p>1 Q. Sir, I didn't ask you to get involved in their hiring</p> <p>2 but assisting them in making application. You did not</p> <p>3 assist them in making the application to try to boost</p> <p>4 the number of minorities in the police department, did</p> <p>5 you?</p> <p>6 MR. MARKO: That's been asked and answered.</p> <p>7 BY MR. ACHO:</p> <p>8 Q. You didn't, did you?</p> <p>9 A. I have encouraged people to apply.</p> <p>10 Q. That's not my -- read the question back to the</p> <p>11 witness.</p> <p>12 (The following requested portion of the</p> <p>13 record was read by the reporter at</p> <p>14 4:00 p.m.):</p> <p>15 Q. Sir, I didn't ask you to get involved</p> <p>16 in their hiring but assisting them in</p> <p>17 making application. You did not assist</p> <p>18 them in making the application to try to</p> <p>19 boost the number of minorities in the</p> <p>20 police department, did you?)</p> <p>21 A. I encouraged the applicants, I encouraged them to</p> <p>22 apply.</p> <p>23 BY MR. ACHO:</p> <p>24 Q. But that's all you did?</p> <p>25 A. Yes, sir.</p>

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<p style="text-align: right;">Page 195</p> <p>1 Q. You did no follow up, did you?</p> <p>2 A. Yes, sir.</p> <p>3 Q. You did no facilitation, did you?</p> <p>4 A. Yes, sir.</p> <p>5 Q. You did nothing else other than encouraging them,</p> <p>6 that's all you did?</p> <p>7 A. That's correct.</p> <p>8 (Mr. Vinson left the deposition room at</p> <p>9 4:01 p.m.)</p> <p>10 BY MR. ACHO:</p> <p>11 Q. Have any minorities been hired while you were there?</p> <p>12 A. One person.</p> <p>13 Q. In the police department?</p> <p>14 A. Yes.</p> <p>15 Q. You had nothing to do with that, did you?</p> <p>16 A. Correct.</p> <p>17 Q. So the City of Warren hired a minority applicant --</p> <p>18 A. Yes.</p> <p>19 Q. -- with no involvement by you?</p> <p>20 A. That's correct.</p> <p>21 Q. Okay. Now, you don't have any proof that the City of</p> <p>22 Warren would not have hired someone because they're</p> <p>23 African-American, correct, you have no proof of that?</p> <p>24 A. No.</p> <p>25 Q. Isn't it true that it is hard to get minorities to</p>	<p style="text-align: right;">Page 197</p> <p>1 Q. The City of Warren hired you for \$71,000 --</p> <p>2 A. Yes.</p> <p>3 Q. -- and in your last employment you were making \$18 an</p> <p>4 hour, correct?</p> <p>5 A. Yes, I was retired and working part time.</p> <p>6 Q. But you were working for \$18 an hour?</p> <p>7 A. Part time, yes.</p> <p>8 Q. Okay. The Warren Police and Fire Civil Service</p> <p>9 Commission, how many times have you met with them?</p> <p>10 A. None.</p> <p>11 Q. None?</p> <p>12 A. None, I wasn't prepared to meet with them.</p> <p>13 (Mr. Vinson entered the deposition room at</p> <p>14 4:03 p.m.)</p> <p>15 Q. You were -- we have to take 20 seconds.</p> <p>16 (Off the record at 4:03 p.m.)</p> <p>17 (Back on the record at 4:04 p.m.)</p> <p>18 BY MR. ACHO:</p> <p>19 Q. You worked for the City of Warren for 11 months --</p> <p>20 A. Yes.</p> <p>21 Q. -- as a diversity coordinator?</p> <p>22 A. Yes.</p> <p>23 Q. And the hiring in the police is not by Mayor Fouts, is</p> <p>24 it?</p> <p>25 A. No.</p>
<p style="text-align: right;">Page 196</p> <p>1 apply for police department positions?</p> <p>2 A. Yes.</p> <p>3 Q. How do you know that?</p> <p>4 A. I know that from attending ALPAC (phonetic) meetings</p> <p>5 where other police departments from across the state</p> <p>6 express the same difficulty.</p> <p>7 Q. As the City of Warren, correct?</p> <p>8 A. Yes.</p> <p>9 Q. And the City of Warren hired you to help change that,</p> <p>10 didn't they?</p> <p>11 A. That's correct.</p> <p>12 Q. And the mayor said to you, I want you to get more</p> <p>13 minorities in our police department, he told you that</p> <p>14 when he hired you, right?</p> <p>15 A. Yes.</p> <p>16 Q. And he paid you, what, \$70,000?</p> <p>17 A. 71.</p> <p>18 Q. 71,000?</p> <p>19 A. Uh-huh.</p> <p>20 Q. What were you making previous to that?</p> <p>21 A. My last place of employment, about 58.</p> <p>22 Q. Weren't you making about \$18 an hour?</p> <p>23 A. I'm speaking of --</p> <p>24 Q. Your previous position?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 198</p> <p>1 Q. He has nothing to do with that, does he?</p> <p>2 A. I can't answer that question.</p> <p>3 Q. So the hiring is by the Police and Fire Civil Service</p> <p>4 Commission, correct?</p> <p>5 A. Yes.</p> <p>6 Q. And in the 11 months, even though the mayor besieged</p> <p>7 you to get more minorities in the police and fire</p> <p>8 department, you never met with the group that's</p> <p>9 charged with the hiring in the police department,</p> <p>10 correct?</p> <p>11 A. That's correct.</p> <p>12 Q. Now, did you ask for something -- first of all, wasn't</p> <p>13 your office right by human resources?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. By the way, you like Mark Simlar, don't you?</p> <p>16 A. Yes.</p> <p>17 Q. You always got along with him?</p> <p>18 A. I've always respected him and he respects me.</p> <p>19 Q. Sure. And the same thing with the previous person,</p> <p>20 he's acting, right, in human --</p> <p>21 A. I believe so.</p> <p>22 Q. The previous person in that position, you got along</p> <p>23 well with him too?</p> <p>24 A. Yes.</p> <p>25 Q. You got along well with the mayor as well, so you got</p>

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<p>1 along with people, correct?</p> <p>2 A. Yes.</p> <p>3 Q. Now, you never went to the human resources director at</p> <p>4 that time or the acting human resource director and</p> <p>5 said, there are some things I need because I really</p> <p>6 want to meet with the civil service commission for</p> <p>7 police and fire, you never asked for something you</p> <p>8 didn't get from him, did you?</p> <p>9 A. I -- you've asked me a couple questions. The first of</p> <p>10 which is yes, I did ask the human resources director</p> <p>11 and the acting human resource director for information</p> <p>12 in order to prepare me to help approach them, that</p> <p>13 would have been the contracts, as you know, that I</p> <p>14 requested, to get a look at contracts from those</p> <p>15 parties to determine whether or not the contracts were</p> <p>16 written as such where they would be exclusionary to</p> <p>17 people of color.</p> <p>18 Q. And you got the contracts?</p> <p>19 A. Yes.</p> <p>20 Q. You found the contracts were not exclusionary,</p> <p>21 correct?</p> <p>22 A. I was not able to complete my assessment.</p> <p>23 Q. Well, here's the contract.</p> <p>24 A. Yes.</p> <p>25 Q. I read this. I read this contract -- I read this</p>	<p>1 adhered to, that would be the EEOC statement, that</p> <p>2 would be the ADA policy, the LEP policy and the Title</p> <p>3 7 policy, those are the things that you would first</p> <p>4 look at to make sure, one, that the City is aware of</p> <p>5 them, two, that they're properly posted, and three,</p> <p>6 whether or not that language is included, any of that</p> <p>7 language is included on the City's website, et cetera,</p> <p>8 so there is a process that was not completed during my</p> <p>9 11 months because it is a multifaceted position.</p> <p>10 Q. Okay. So it's your sworn testimony that you didn't</p> <p>11 complete your job duties even in the first 11 months,</p> <p>12 is that right, is that correct?</p> <p>13 A. No, sir.</p> <p>14 Q. Well, you said you didn't review everything?</p> <p>15 MR. MARKO: Objection, mischaracterizes his</p> <p>16 testimony.</p> <p>17 BY MR. ACHO:</p> <p>18 Q. You didn't -- didn't you just say, I didn't complete</p> <p>19 it, yes or no?</p> <p>20 MR. MARKO: Complete what?</p> <p>21 A. Complete what?</p> <p>22 BY MR. ACHO:</p> <p>23 Q. What you just said, you have to look at this, this,</p> <p>24 this, this?</p> <p>25 A. True.</p>
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<p>1 contract in 45 minutes, that's all it takes, right?</p> <p>2 MR. MARKO: Objection, no foundation.</p> <p>3 A. No, sir.</p> <p>4 BY MR. ACHO:</p> <p>5 Q. Well, here, it's 50-pages long.</p> <p>6 A. What you're showing me, sir, is not the contract.</p> <p>7 Q. I'm sorry. Here, I apologize, it's right here. It</p> <p>8 is -- it would take about an hour, hour and a half to</p> <p>9 read, right?</p> <p>10 MR. MARKO: Objection, foundation and</p> <p>11 speculation.</p> <p>12 BY MR. ACHO:</p> <p>13 Q. True?</p> <p>14 A. No, sir.</p> <p>15 Q. Did you read the contract?</p> <p>16 A. Yes, I did.</p> <p>17 Q. When did you read it, the first month you were there,</p> <p>18 I assume?</p> <p>19 A. No, sir.</p> <p>20 Q. How come you didn't read it the first month you were</p> <p>21 there?</p> <p>22 A. Because when you come on board a position like that</p> <p>23 you have to do your due diligence, you have to look</p> <p>24 for certain basic policies as to whether or not they</p> <p>25 exist or not and are properly published and being</p>	<p>1 Q. You said I didn't complete it?</p> <p>2 A. There are stages.</p> <p>3 Q. Wait. Did you say that?</p> <p>4 MR. MARKO: No. No, the record speaks for</p> <p>5 itself. Did he say what? I'm going to object to</p> <p>6 form.</p> <p>7 You go ahead and you give the answer.</p> <p>8 A. To the extent that there are stages of activity that</p> <p>9 must be phased in after you've done your due diligence</p> <p>10 with respect to the current environment first. You</p> <p>11 can't go in there charging.</p> <p>12 BY MR. ACHO:</p> <p>13 Q. Did you finish it, yes or no?</p> <p>14 MR. MARKO: Finish what?</p> <p>15 A. Did I finish what?</p> <p>16 BY MR. ACHO:</p> <p>17 Q. We'll go on. Now, so I'm clear, you know that the</p> <p>18 mayor wants you to get more minorities in the police</p> <p>19 department, correct?</p> <p>20 A. He stated that.</p> <p>21 Q. That can only be done through the civil service</p> <p>22 commission, correct?</p> <p>23 A. Not necessarily.</p> <p>24 Q. Well, they're the ones in charge of getting the</p> <p>25 applicants and screening them, correct?</p>

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<p>1 A. Uh-huh. Yes.</p> <p>2 Q. So they're the ones that get everything ready for the</p> <p>3 hiring, correct? Yes or no?</p> <p>4 A. Yes.</p> <p>5 Q. And you, in 11 months, never even met with them, did</p> <p>6 you?</p> <p>7 A. That's correct.</p> <p>8 Q. And you didn't write them a letter saying, I would</p> <p>9 like to meet with you, or a memo, you never did that,</p> <p>10 did you? Yes or no?</p> <p>11 A. With whom?</p> <p>12 Q. With the civil service commission and police and fire?</p> <p>13 A. I did with the police commissioner but I didn't do it</p> <p>14 with the civil service commission.</p> <p>15 Q. That's what I'm talking about.</p> <p>16 A. It would be inappropriate for me to do so and be so</p> <p>17 unprepared to have a conversation.</p> <p>18 Q. You know what, how about beginning the dialog, you</p> <p>19 could have begun the dialog and say, here's what I'm</p> <p>20 here to do, how can you help me get -- you could have</p> <p>21 done that?</p> <p>22 MR. MARKO: Objection, argumentative.</p> <p>23 A. I had the conversation with the police commissioner,</p> <p>24 Jere Green.</p> <p>25 BY MR. ACHO:</p>	<p>1 MR. MARKO: This is what you reported to --</p> <p>2 BY MR. ACHO:</p> <p>3 Q. We're talking about the civil service commission, not</p> <p>4 department heads. We're not talking about department</p> <p>5 heads, do you understand the difference? Yes or no?</p> <p>6 MR. MARKO: Objection, let him answer the</p> <p>7 question.</p> <p>8 Go ahead.</p> <p>9 BY MR. ACHO:</p> <p>10 Q. Do you understand the difference between a commission</p> <p>11 and a department head, yes or no?</p> <p>12 MR. MARKO: You don't have to answer yes or</p> <p>13 no to any questions he's asking. Go ahead.</p> <p>14 A. Both are appointed positions and --</p> <p>15 BY MR. ACHO:</p> <p>16 Q. I didn't ask you that. I didn't ask you that.</p> <p>17 MR. MARKO: Go ahead.</p> <p>18 BY MR. ACHO:</p> <p>19 Q. I did not ask you that question. My question is</p> <p>20 simple, do you know the difference between the</p> <p>21 department head and the civil service commission, yes</p> <p>22 or no?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. What is the difference?</p> <p>25 A. Both are appointed by the mayor.</p>
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<p>1 Q. Sir, listen to me, police commissioner is not the same</p> <p>2 as the civil service commissioner, is it? Yes or no?</p> <p>3 A. No.</p> <p>4 Q. Okay. We're only talking about the Warren Civil</p> <p>5 Service Commission Police and Fire, correct?</p> <p>6 A. Yes.</p> <p>7 Q. You never wrote them a letter or an e-mail or a note</p> <p>8 saying, I would like to meet with you to have a</p> <p>9 preparatory meeting to see how I can help you get more</p> <p>10 applicants that are minorities, you never did it, did</p> <p>11 you?</p> <p>12 MR. MARKO: Objection, asked and answered.</p> <p>13 A. It would be inappropriate.</p> <p>14 BY MR. ACHO:</p> <p>15 Q. Now, so we're clear, no one prohibited you from</p> <p>16 reaching out to the Police and Fire Civil Service</p> <p>17 Commission, no one said you could not?</p> <p>18 A. The mayor instructed me not to have any direct</p> <p>19 engagement with any of his department heads, et</p> <p>20 cetera, without his prior approval.</p> <p>21 Q. Sir, why do you do this?</p> <p>22 MR. MARKO: Objection. Counsel, why do you</p> <p>23 do this?</p> <p>24 BY MR. ACHO:</p> <p>25 Q. Why do you do this? We're --</p>	<p>1 Q. What's the difference?</p> <p>2 MR. MARKO: He's trying to tell you.</p> <p>3 BY MR. ACHO:</p> <p>4 Q. I don't want the similarities?</p> <p>5 MR. MARKO: Go ahead.</p> <p>6 A. I understand now. I got this. While both are</p> <p>7 appointed and answer to the mayor, a department head</p> <p>8 supervises the activities of other civil servants.</p> <p>9 The civil service commission is a policy-making board</p> <p>10 where the department heads don't make policy, per se,</p> <p>11 so they're both appointed by the mayor, they answer</p> <p>12 directly to the mayor but at the same time they do</p> <p>13 have different responsibilities and, in any case, the</p> <p>14 mayor -- the mayor tells me, don't talk to any more of</p> <p>15 my appointees, which is what he said to me --</p> <p>16 BY MR. ACHO:</p> <p>17 Q. You said --</p> <p>18 MR. MARKO: Go ahead. Go ahead.</p> <p>19 A. -- the civil -- the civil department heads and --</p> <p>20 MR. MARKO: Let him finish his answer.</p> <p>21 BY MR. ACHO:</p> <p>22 Q. Are you changing --</p> <p>23 MR. MUNGO: Objection, argumentative.</p> <p>24 MR. MARKO: Go ahead and complete your</p> <p>25 answer before you were rudely interrupted. Go ahead.</p>

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<p style="text-align: right;">Page 207</p> <p>1 A. The mayor told me not to speak to any of his 2 appointees or department heads. He gave me that 3 explicit instruction after an incident occurred 4 regarding my engagement with Sergeant -- then Sergeant 5 Bradley around a -- services provided to the deaf and 6 the mayor told me with Police Commissioner Dwyer 7 present, not to have any contact with his appointees 8 or department heads. 9 BY MR. ACHO: 10 Q. When was that? 11 A. July -- June or July. June, I think it was in June. 12 Q. Of 2017? 13 A. Right, well after I was hired. 14 Q. Okay. But just so I'm clear, so between January and 15 June of 2017 you had no prohibition on contacting this 16 Police and Fire Civil Service Commission, you had no 17 prohibitions, no? 18 A. Yes and no. 19 MR. MARKO: Counsel, you are raising -- you 20 know, you are clapping your hands, raising your hands 21 up like you are in dismay. Let him answer. 22 MR. ACHO: I am in dismay and I'll tell you 23 why -- 24 MR. MARKO: Don't -- 25 MR. ACHO: -- this witness is not being</p>	<p style="text-align: right;">Page 209</p> <p>1 Q. Do you remember saying that? 2 MR. MARKO: The record speaks for itself 3 and asked and answered. 4 MR. MUNGO: It mischaracterizes his 5 testimony. 6 A. There's a protocol to be followed I said. 7 BY MR. ACHO: 8 Q. What's the protocol for contacting the City of Warren 9 Police and Fire Civil Service Commission in January of 10 2017 when you were hired, what was the protocol? 11 A. In January I was just getting my feet wet with the 12 City. 13 Q. I did not ask you that. 14 A. I did not know the protocol completely in January. 15 Q. Did you know the protocol in February? 16 A. No. 17 Q. Did you know it in March? 18 A. I began to learn about it. 19 Q. Okay. So in March did you contact the civil service 20 commission? 21 A. No, I did not. 22 MR. MUNGO: Asked and answered. 23 BY MR. ACHO: 24 Q. Did you contact them in April? 25 A. No.</p>
<p style="text-align: right;">Page 208</p> <p>1 candid. 2 MR. MUNGO: Objection, Counsel, you are 3 intimidating this witness, you are harassing this 4 witness, you're doing physical things, getting up out 5 of your chair, walking around like you're frustrated 6 with this particular witness and you are not even 7 giving him a chance to answer your questions. I 8 object to your conduct. 9 MR. MARKO: Don't let his theatrics 10 influence your answer. 11 BY MR. ACHO: 12 Q. Sir -- 13 A. There's a protocol. 14 Q. I'm going to ask you questions that deal with your 15 answers that you just gave under oath. 16 A. Sure. 17 Q. Now, you said I didn't speak to the civil service 18 commission ever, right? 19 A. Correct. 20 Q. Okay. I said, well, you were there 11 months, and you 21 said, well, I wasn't ready and all that, do you 22 remember saying that? 23 MR. MUNGO: Objection to the recitation of 24 the record. 25 BY MR. ACHO:</p>	<p style="text-align: right;">Page 210</p> <p>1 Q. Did you contact them in June? 2 A. No. 3 Q. You were not given any prohibition by the mayor until 4 you said June of 2017, correct? 5 A. That's correct. 6 Q. So why didn't you contact them before June of 2017? 7 A. Because it would have been inappropriate to contact 8 them without having done my due diligence and my 9 research with respect to the implication of the civil 10 service rules. There was an assessment period that 11 needed to be conducted. 12 Q. Did you ever advise the Warren Police and Fire Civil 13 Service Commission that their hiring practices were 14 discriminatory? 15 A. No. 16 Q. Did you ever advise the Warren Police and Fire Civil 17 Service Commission that their hiring practices had a 18 disparate impact on minorities, did you ever do that? 19 A. Not the civil service commission, no. 20 Q. Okay. Please tell us, since you were diversity 21 coordinator, did you study the application process for 22 the police department over the last two years, did you 23 know what it was? 24 A. Yes. 25 Q. Did you find it, the application process, in any way</p>

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<p style="text-align: right;">Page 211</p> <p>1 discriminatory?</p> <p>2 A. I found it to have a disparate impact, yes.</p> <p>3 Q. Do you have anything in writing where you expressed</p> <p>4 that in any memorandum prior to you asking for a raise</p> <p>5 in October or November 2017?</p> <p>6 MR. MUNGO: Objection, mischaracterizes his</p> <p>7 testimony. He didn't say he asked for --</p> <p>8 A. No.</p> <p>9 BY MR. ACHO:</p> <p>10 Q. Can you tell us, in your due diligence, whether you</p> <p>11 found any minority applicant that was qualified and</p> <p>12 was turned down because they were minorities?</p> <p>13 A. No.</p> <p>14 Q. Now, the Police and Fire Civil Service Commission are</p> <p>15 charged with creating policies dealing with hiring,</p> <p>16 aren't they?</p> <p>17 A. Yes.</p> <p>18 Q. Did you make any recommendations to them that would</p> <p>19 enhance the hiring of minorities in the police</p> <p>20 department or anywhere else?</p> <p>21 A. Not at that time, no.</p> <p>22 Q. At any time?</p> <p>23 A. No.</p> <p>24 Q. In your 11 months?</p> <p>25 A. No, it would have been inappropriate for me to have</p>	<p style="text-align: right;">Page 213</p> <p>1 responsibilities of Mr. Easter (phonetic) as well as</p> <p>2 his own?</p> <p>3 A. I assumed he did, yes.</p> <p>4 Q. Are you aware whether he demanded a raise?</p> <p>5 A. I'm not aware of that.</p> <p>6 Q. Are you aware whether he was given any more money?</p> <p>7 A. Yes.</p> <p>8 Q. Really?</p> <p>9 A. I believe he was compensated at the rate of the human</p> <p>10 resource director on an interim basis.</p> <p>11 Q. What do you base that on, is that just conjecture on</p> <p>12 your part?</p> <p>13 A. Okay.</p> <p>14 MR. MARKO: Go ahead. Answer the question.</p> <p>15 Go ahead.</p> <p>16 BY MR. ACHO:</p> <p>17 Q. Is it a conjecture, a guess, on your part?</p> <p>18 A. I looked at the budget and saw the position and the</p> <p>19 salary and my assumption is that he did receive that</p> <p>20 increase.</p> <p>21 Q. That's an assumption on your part?</p> <p>22 A. Yes.</p> <p>23 Q. You don't know whether that's true?</p> <p>24 A. That's true.</p> <p>25 Q. That's hearsay, right?</p>
<p style="text-align: right;">Page 212</p> <p>1 that conversation.</p> <p>2 Q. Okay. We're not talking about conversations, we're</p> <p>3 talking about you putting something in writing.</p> <p>4 A. It would be inappropriate for me to put that in</p> <p>5 writing when I haven't conducted my due diligence.</p> <p>6 Q. Okay. Did you tell the mayor in any memo that, Mayor,</p> <p>7 you know, I haven't been able to do my due diligence,</p> <p>8 did you tell him that?</p> <p>9 A. Due diligence is an ongoing process.</p> <p>10 Q. Did you tell him you couldn't do your due diligence?</p> <p>11 A. No.</p> <p>12 Q. Yet, after 11 months you wanted a raise, correct?</p> <p>13 A. I wanted an increase in compensation based on me being</p> <p>14 given the duties of the liaison for the City of Warren</p> <p>15 in addition to my other duties.</p> <p>16 Q. Would you have been the only employee of the city who</p> <p>17 was given additional duties without additional</p> <p>18 compensation?</p> <p>19 A. I have no way to know that.</p> <p>20 Q. Well, yeah, you could have asked certain people,</p> <p>21 right?</p> <p>22 A. I have no way to know that, sir.</p> <p>23 Q. Wait a minute. Didn't you work right by Mr. Simlar?</p> <p>24 A. Yes.</p> <p>25 Q. Didn't you see him carry on and accept the</p>	<p style="text-align: right;">Page 214</p> <p>1 A. I wouldn't consider that hearsay.</p> <p>2 Q. Well, you're guessing?</p> <p>3 MR. MARKO: That calls for a legal</p> <p>4 conclusion and asked and answered. He just answered</p> <p>5 that question.</p> <p>6 BY MR. ACHO:</p> <p>7 Q. Aren't you guessing?</p> <p>8 MR. MARKO: Mischaracterizes his testimony.</p> <p>9 A. I was shown the department budget and the department</p> <p>10 budget --</p> <p>11 BY MR. ACHO:</p> <p>12 Q. It doesn't have Simlar's name on it, did it?</p> <p>13 A. Well, the budget doesn't have any individual's name on</p> <p>14 it.</p> <p>15 Q. So you don't know whether he got a raise?</p> <p>16 A. That's correct.</p> <p>17 Q. So would you call him a beast of burden because he was</p> <p>18 given all these extra jobs?</p> <p>19 MR. MARKO: Objection to form.</p> <p>20 BY MR. ACHO:</p> <p>21 Q. Would you call him a beast of burden?</p> <p>22 A. I don't know that he got all these extra jobs. You</p> <p>23 would have to share with me what that means.</p> <p>24 Q. Yeah, he took on more jobs than he had previously?</p> <p>25 A. He took on a position.</p>

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<p style="text-align: right;">Page 215</p> <p>1 Q. Well, doesn't a position require responsibilities?</p> <p>2 A. Yes.</p> <p>3 Q. So he took on, Mr. Simlar, more responsibilities,</p> <p>4 would you then call him a beast of burden?</p> <p>5 MR. MARKO: Objection to form.</p> <p>6 A. I can't answer that question.</p> <p>7 BY MR. ACHO:</p> <p>8 Q. Would you ever use that expression, beast of burden?</p> <p>9 A. Yes.</p> <p>10 Q. And you felt that because you were given additional</p> <p>11 responsibilities that you were a beast of burden,</p> <p>12 right?</p> <p>13 A. I felt that --</p> <p>14 Q. Yes or no?</p> <p>15 MR. MARKO: Let him answer the question.</p> <p>16 A. I felt that someone else thought me to be a beast of</p> <p>17 burden buy giving me five additional duties, four of</p> <p>18 which were inside of the human resource director's job</p> <p>19 duties and then one other, which was completely</p> <p>20 outside of the scope of my appointment.</p> <p>21 BY MR. ACHO:</p> <p>22 Q. Isn't part of the reason why you didn't get your jobs</p> <p>23 done because you took off so much time from work?</p> <p>24 A. No.</p> <p>25 MR. MARKO: Objection, that</p>	<p style="text-align: right;">Page 217</p> <p>1 two or three days?</p> <p>2 A. Two days.</p> <p>3 Q. It wasn't the death of a live child, was it? Yes or</p> <p>4 no?</p> <p>5 A. That does not matter.</p> <p>6 Q. Yes or no?</p> <p>7 A. I'm not going to answer that question yes or no. That</p> <p>8 does not matter. This was a grandchild of mine and I</p> <p>9 took days that I was entitled to.</p> <p>10 Q. Bereavement?</p> <p>11 A. I did not exceed days.</p> <p>12 MR. MARKO: Let him finish. Counsel, you</p> <p>13 just made a big speech about cutting people off.</p> <p>14 Don't cut off the witness. Let him answer the</p> <p>15 question.</p> <p>16 BY MR. ACHO:</p> <p>17 Q. Did you take bereavement, yes or no?</p> <p>18 A. No.</p> <p>19 Q. How many days did you take off?</p> <p>20 A. Two.</p> <p>21 Q. And didn't you take a mental health day too or more</p> <p>22 than one?</p> <p>23 A. I took a sick day, it was attributed to a sick day.</p> <p>24 Q. Did you call it a mental health day?</p> <p>25 A. Yes, sir.</p>
<p style="text-align: right;">Page 216</p> <p>1 mischaracterizes his testimony and that assumes facts</p> <p>2 not in evidence.</p> <p>3 A. No, sir.</p> <p>4 MR. MARKO: There's no establishment that</p> <p>5 he didn't get his jobs done.</p> <p>6 MR. ACHO: Counsel, do you realize on at</p> <p>7 least a half-dozen occasions you've interrupted me</p> <p>8 before I even finish my question?</p> <p>9 MR. MARKO: Not that one, Counsel.</p> <p>10 MR. ACHO: You did. You most certainly</p> <p>11 did.</p> <p>12 MR. MARKO: No, I did not.</p> <p>13 MR. ACHO: Absolutely.</p> <p>14 MR. MUNGO: That is not true.</p> <p>15 BY MR. ACHO:</p> <p>16 Q. I'll ask you again. You took a lot of time off from</p> <p>17 work, didn't you?</p> <p>18 A. No, sir.</p> <p>19 MR. MARKO: Same objection.</p> <p>20 BY MR. ACHO:</p> <p>21 Q. Didn't you exhaust your time off from work?</p> <p>22 A. For the calendar year, work year?</p> <p>23 Q. Yeah.</p> <p>24 A. I believe I may have, yes.</p> <p>25 Q. And you even took time off due to a miscarriage for</p>	<p style="text-align: right;">Page 218</p> <p>1 Q. What mental health are you talking about?</p> <p>2 A. There was so many things coming at me.</p> <p>3 Q. When was this, by the way?</p> <p>4 A. I don't --</p> <p>5 Q. I don't --</p> <p>6 MR. MARKO: Don't interrupt.</p> <p>7 BY MR. ACHO:</p> <p>8 Q. I don't want to get --</p> <p>9 MR. MARKO: Wait until he answers and then</p> <p>10 you can ask.</p> <p>11 BY MR. ACHO:</p> <p>12 Q. When --</p> <p>13 A. I don't recall when that occurred. You'd have to</p> <p>14 check the City's records and it was charged to a sick</p> <p>15 day.</p> <p>16 Q. Let me ask you, but do you recall what it was for?</p> <p>17 A. Yes, I had to clear my head.</p> <p>18 Q. From what?</p> <p>19 A. From the bombardment of people coming at me because I</p> <p>20 was new and that -- at that point it became, to some</p> <p>21 degree, overwhelming and I took a day off to clear my</p> <p>22 head.</p> <p>23 Q. Did you write a note to the mayor that this job was</p> <p>24 becoming too much for you in March, April, May, June,</p> <p>25 July?</p>

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<p style="text-align: right;">Page 219</p> <p>1 A. No.</p> <p>2 MR. MARKO: Objection to form.</p> <p>3 BY MR. ACHO:</p> <p>4 Q. So that bombardment that caused you to need to clear</p> <p>5 your head only happened once?</p> <p>6 A. At the early onset of my employment.</p> <p>7 Q. Okay. Early onset?</p> <p>8 A. Yes, sir.</p> <p>9 Q. That's before you really got your feet wet, true?</p> <p>10 A. No, getting your feet wet was a process from the</p> <p>11 day -- from January 6th forward.</p> <p>12 Q. Well, didn't the mayor let you work part time for full</p> <p>13 pay the first few weeks you worked, didn't he do that?</p> <p>14 A. No, sir.</p> <p>15 Q. By the way, you were talking about the</p> <p>16 collective-bargaining agreement. Did you ever read</p> <p>17 the collective-bargaining agreement?</p> <p>18 A. Yes, sir.</p> <p>19 Q. The whole thing?</p> <p>20 A. Yes, sir.</p> <p>21 Q. I assume after you read it you then contacted the</p> <p>22 union executive board to meet with him, didn't you?</p> <p>23 A. I made an appointment with Mark Sauger, who is the</p> <p>24 president of the Detroit Police Union, and met with</p> <p>25 him and --</p>	<p style="text-align: right;">Page 221</p> <p>1 Q. That's fine. We're just trying to get the facts,</p> <p>2 that's all. Now, you met with the union president?</p> <p>3 A. Yes.</p> <p>4 Q. How many times?</p> <p>5 A. Once.</p> <p>6 Q. Okay. At any time do you remember when that was, what</p> <p>7 month?</p> <p>8 A. It would have been possibly in March or April.</p> <p>9 Q. Now, did you say to the union president that there was</p> <p>10 anything about the union contract that in any way</p> <p>11 discriminated against minorities?</p> <p>12 A. No.</p> <p>13 Q. Did you find the union contract fine?</p> <p>14 A. I saw no instance of a diversity statement or a</p> <p>15 diversity policy within the contract and that is</p> <p>16 something that was missing from that contract.</p> <p>17 Q. Okay. Show me the memorandum that you wrote to the</p> <p>18 mayor or to human resources and to the union where you</p> <p>19 recommend that that be put in, can I see that memo?</p> <p>20 A. That does not exist.</p> <p>21 Q. You didn't prepare one?</p> <p>22 A. I prepared a City of Warren diversity policy that</p> <p>23 would have then been included in subsequent contracts.</p> <p>24 Q. I didn't ask you that. I want to know whether you did</p> <p>25 your job, you said, I identified that something was</p>
<p style="text-align: right;">Page 220</p> <p>1 Q. Well --</p> <p>2 MR. MARKO: Wait. Stop. Stop. Stop.</p> <p>3 Stop. Stop. You're cutting the witness off.</p> <p>4 Go ahead.</p> <p>5 A. -- and met with him --</p> <p>6 MR. ACHO: That's not my question.</p> <p>7 MR. MARKO: You go ahead.</p> <p>8 BY MR. ACHO:</p> <p>9 Q. I'm going to ask my question because I think you</p> <p>10 misspoke.</p> <p>11 MR. MARKO: Okay.</p> <p>12 BY MR. ACHO:</p> <p>13 Q. I think you misspoke.</p> <p>14 A. I met with Mark Sauger to discuss diversity. Mark</p> <p>15 Sauger is the president of the Police Officer's</p> <p>16 Association. I met with him to discuss diversity.</p> <p>17 Q. Do you know what you just said in your testimony?</p> <p>18 A. What's that?</p> <p>19 Q. City of Detroit, you didn't mean that, did you?</p> <p>20 A. No.</p> <p>21 Q. That's why I was trying to interrupt. I do not want</p> <p>22 to waste the time for something --</p> <p>23 MR. MARKO: Let him finish.</p> <p>24 A. I misspoke.</p> <p>25 BY MR. ACHO:</p>	<p style="text-align: right;">Page 222</p> <p>1 missing from the union contract --</p> <p>2 A. Yes.</p> <p>3 Q. -- correct, and I asked you then produce a memorandum</p> <p>4 to the mayor and to human resources and to the union</p> <p>5 officials saying this is something that needs to be</p> <p>6 addressed in the contract and you never prepared such</p> <p>7 a thing, did you?</p> <p>8 A. I helped prepare a policy to be submitted to the mayor</p> <p>9 to give permission to present it to these other</p> <p>10 bodies.</p> <p>11 Q. Sir, you didn't present a memo saying, the union</p> <p>12 contract needs to get this put in?</p> <p>13 A. No.</p> <p>14 MR. MARKO: Asked and answered.</p> <p>15 BY MR. ACHO:</p> <p>16 Q. In addition, you met with the attorney who does the</p> <p>17 labor for the City, correct?</p> <p>18 A. Which one?</p> <p>19 Q. Howard Schiffman?</p> <p>20 A. Yes.</p> <p>21 Q. And did you give him a memorandum saying, here's</p> <p>22 something that has to go into the contract, yes or no?</p> <p>23 A. No.</p> <p>24 Q. Okay. Yet, you're the head of diversity?</p> <p>25 A. Yes.</p>

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<p style="text-align: right;">Page 223</p> <p>1 Q. But you didn't even produce this memorandum for the 2 future to go into the union contract, you didn't, did 3 you? 4 A. Mr. Acho, I'm not Superman. 5 Q. Okay. I understand. 6 A. Okay. 7 Q. But even though there wasn't a discrimination, or 8 whatever you said wasn't there, you didn't say that 9 the contract was in any way discriminatory toward 10 minorities, you didn't, did you? 11 A. I did not say that to anyone. 12 Q. And you didn't believe it because you would have 13 written something if you felt there was discrimination 14 in the contract, correct? 15 MR. MARKO: Objection to form. 16 A. That's not true. 17 BY MR. ACHO: 18 Q. But you didn't tell anyone or write anything saying 19 the contract has anything discriminatory, correct? 20 MR. MARKO: Asked and answered. 21 A. I've already answered that question. 22 BY MR. ACHO: 23 Q. No, you did not. Not that question. 24 A. Yes, I have. 25 Q. You did not find anything in the union contract that</p>	<p style="text-align: right;">Page 225</p> <p>1 then parsed out to other departments. I never -- 2 Q. Wait a minute. 3 A. I never had the opportunity to present that. 4 Q. Wait. Wait. Wait. You said you met with the 5 union president in March? 6 A. True. 7 Q. You had the union contract? 8 A. I didn't get the union contract until well after I 9 spoke to the union president. I had requested it but 10 I didn't receive it until well after I spoke to the 11 union president. 12 Q. Hold on. When did you -- because this I got within 13 one hour. When did you request it since it's in the 14 human resources office, right, true? 15 MR. MARKO: Foundation. 16 A. I don't know where it's physically located but I did 17 ask for it and then -- 18 BY MR. ACHO: 19 Q. Who did you ask? 20 A. Mark and then about a week or two later he gave me -- 21 he pointed me to where it could be found or you 22 e-mailed it to me. I don't remember which, yeah. 23 Q. So you requested the union contract and you got it 24 within one or two weeks? 25 A. Yes.</p>
<p style="text-align: right;">Page 224</p> <p>1 was discriminatory against minorities like having 2 disparate impact, correct? 3 A. No, the execution of the contract or contracts in the 4 future led to the disparate impact that the City found 5 itself in based on a percentage of people of color in 6 the City of Warren and the City employee base in the 7 City of Warren. 8 Q. You have me confused. 9 A. I know. 10 Q. Either the union contract has something discriminatory 11 or it does not, which is it? Yes, it has 12 discrimination in it or no, it does not, what is the 13 answer? 14 A. My answer to you is that you can have rules and 15 regulations, which on their face do not appear to be 16 discriminatory but can have disparate impact on 17 certain protected classes. 18 Q. There's nothing in the contract that has anything like 19 that, does it? 20 A. I can't say that to be sure. 21 Q. But you're not aware of any because you didn't 22 identify any? 23 A. I had not gotten to the point where I would be 24 presenting this information to the mayor first because 25 everything has to be presented to the mayor first and</p>	<p style="text-align: right;">Page 226</p> <p>1 Q. You reviewed it and you didn't identify anything in it 2 that was discriminatory? 3 A. Not at that time. 4 Q. When you met with the union president, did you 5 identify any problems? 6 A. No, it wasn't -- the meeting wasn't for that purpose. 7 Q. Well, what was your -- what was the purpose of your 8 meeting? 9 A. To introduce myself, to share with him what my job 10 duties were, to get some sense of whether or not he 11 would be supportive of addressing the lack of 12 diversity within the police department. 13 Q. What did he say? 14 A. He said he was interested in effectuating a diverse -- 15 Q. You felt good about that, didn't you? 16 A. Yes, I did. 17 Q. Okay. Because here you have the support of the union, 18 right? 19 A. I had his support. 20 Q. He was the president. Okay. Now, if you read the 21 contract you know there's a grievance procedure, 22 correct? 23 A. Yes. 24 Q. It appeared fair to you, this grievance procedure? 25 A. Yes.</p>

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<p style="text-align: right;">Page 227</p> <p>1 Q. DeSheila Howlett didn't follow it, did she?</p> <p>2 A. I have no knowledge of whether she did or didn't.</p> <p>3 Q. Wait a minute. I thought you said --</p> <p>4 MR. MUNGO: Objection, Counsel -- Counsel,</p> <p>5 objection. Counsel, do you have a medical condition,</p> <p>6 sir, that you have to keep getting up out of your seat</p> <p>7 because it's very disconcerting to my client combined</p> <p>8 with your demeaning tone and constant ongoing</p> <p>9 harassment of the deponent.</p> <p>10 MR. ACHO: I want the record to reflect --</p> <p>11 MR. MUNGO: Do you suffer from a medical</p> <p>12 condition, sir? You keep getting out of your seat and</p> <p>13 walking around --</p> <p>14 MR. ACHO: I want the record --</p> <p>15 MR. MUNGO: -- it's all part and parcel of</p> <p>16 your attempt to intimidate and disconcert this</p> <p>17 deponent.</p> <p>18 MR. ACHO: I have colitis.</p> <p>19 MR. MARKO: And that's why you have to keep</p> <p>20 getting out of your chair?</p> <p>21 MR. ACHO: Yes. I know this is your</p> <p>22 client, Mr. Murray, and --</p> <p>23 MR. MARKO: Objection.</p> <p>24 MR. ACHO: Well, that's what he said.</p> <p>25 MR. MUNGO: No, the deponent, I misspoke.</p>	<p style="text-align: right;">Page 229</p> <p>1 (Recess taken at 4:35 p.m.)</p> <p>2 (Back on the record at 4:49 p.m.)</p> <p>3 BY MR. ACHO:</p> <p>4 Q. While you were working at the City of Warren, if an</p> <p>5 employee in the police department had any issues with</p> <p>6 their supervisors or a fellow police officer, what</p> <p>7 were their options to deal with those issues?</p> <p>8 A. Given it was a union environment, file a grievance.</p> <p>9 Q. Can you explain that?</p> <p>10 A. As a protocol for making a complaint regarding</p> <p>11 management in a unionized environment, there is that</p> <p>12 process and it's called a grievance.</p> <p>13 Q. And that is what DeSheila Howlett should have used?</p> <p>14 MR. MUNGO: Objection, foundation.</p> <p>15 A. Could have used.</p> <p>16 BY MR. ACHO:</p> <p>17 Q. Should have used?</p> <p>18 A. Could.</p> <p>19 Q. When you say could, what other options did she have</p> <p>20 besides filing a grievance?</p> <p>21 A. Based on what was shared to me by Mark, she would come</p> <p>22 to him.</p> <p>23 Q. Okay. So filing a grievance is an option?</p> <p>24 A. Is an option.</p> <p>25 Q. And another option, going to HR?</p>
<p style="text-align: right;">Page 228</p> <p>1 My client is Ms. Howlett, you know better than that.</p> <p>2 MR. ACHO: No, sir.</p> <p>3 BY MR. ACHO:</p> <p>4 Q. Now, Mr. Murray, I told you you can get up. Is my</p> <p>5 walking around affecting your truthfulness?</p> <p>6 MR. MUNGO: Counselor, if you have a</p> <p>7 medical condition that's fine, go ahead.</p> <p>8 A. No.</p> <p>9 BY MR. ACHO:</p> <p>10 Q. Is it affecting your ability to answer my questions?</p> <p>11 A. No.</p> <p>12 Q. Thank you. If it does, then I will turn and face you,</p> <p>13 okay?</p> <p>14 A. Yes.</p> <p>15 MR. MUNGO: Counsel, if you have a medical</p> <p>16 condition, go ahead, proceed. I'm assuming that's</p> <p>17 true. Go ahead, proceed. If you have a medical</p> <p>18 condition, proceed.</p> <p>19 MR. MARKO: My client has to take a</p> <p>20 bathroom break.</p> <p>21 MR. ACHO: How much time do you want? Tell</p> <p>22 me -- take what time you need. I'm not here to rush</p> <p>23 you.</p> <p>24 MR. MUNGO: You don't need to instruct him.</p> <p>25 MR. MARKO: We'll take five minutes.</p>	<p style="text-align: right;">Page 230</p> <p>1 A. Yes.</p> <p>2 Q. Any other options or are those the two?</p> <p>3 A. Those are the two that I'm aware of.</p> <p>4 Q. Okay. Now, DeSheila Howlett didn't do either one, did</p> <p>5 she?</p> <p>6 MR. MUNGO: Foundation.</p> <p>7 A. I'm not aware of whether or not. I am aware she spoke</p> <p>8 to Mark because Mark told me she spoke to him on a</p> <p>9 couple of occasions.</p> <p>10 BY MR. ACHO:</p> <p>11 Q. But that was after someone else complained on her</p> <p>12 behalf, correct?</p> <p>13 A. I'm not aware of that, sir.</p> <p>14 Q. So you don't really know facts surrounding her, do</p> <p>15 you? You don't really know because you did not</p> <p>16 undertake your own investigation, correct?</p> <p>17 A. I did not conduct my own investigation.</p> <p>18 Q. You deferred to other people who did conduct the</p> <p>19 investigation, correct?</p> <p>20 A. That investigation was undertaken without any input</p> <p>21 from me. I was only apprised of an investigation</p> <p>22 after the fact.</p> <p>23 Q. Okay. So as you sit here today, you have no personal</p> <p>24 knowledge that DeSheila Howlett, in all those years,</p> <p>25 ever filed a grievance, correct?</p>

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<p style="text-align: right;">Page 231</p> <p>1 A. That's correct.</p> <p>2 Q. She could have filed a grievance?</p> <p>3 A. It's an option.</p> <p>4 Q. Second of all, DeSheila Howlett could have gone to</p> <p>5 human resources with any complaints that she had,</p> <p>6 correct?</p> <p>7 A. Correct.</p> <p>8 Q. You're not aware that she had gone to human resources</p> <p>9 to make a complaint, but only at some point you found</p> <p>10 out she spoke with Mark Simlar?</p> <p>11 A. Correct, she spoke to Mark Simlar.</p> <p>12 Q. She never spoke to you?</p> <p>13 A. That's correct.</p> <p>14 Q. Now, isn't it unfair for an employee to have</p> <p>15 complaints and not come forward and tell the employer</p> <p>16 to correct it?</p> <p>17 A. I would not say unfair. An employee might be</p> <p>18 intimidated to the point where they don't report</p> <p>19 things to anyone. For example --</p> <p>20 Q. I understand.</p> <p>21 MR. MARKO: He's speaking, he's not done.</p> <p>22 Let him finish.</p> <p>23 Go ahead.</p> <p>24 A. For example, where there might be a safety issue</p> <p>25 involved, based on retaliation of one person or</p>	<p style="text-align: right;">Page 233</p> <p>1 with discrimination and sexual harassment?</p> <p>2 A. I requested that information from then Police</p> <p>3 Commissioner Jere Green and it was not given to me.</p> <p>4 Q. I'll ask that question again. Please listen to my</p> <p>5 question because I have a reason why I ask you certain</p> <p>6 questions.</p> <p>7 Please read it back and I want you to</p> <p>8 answer my question.</p> <p>9 (The following requested portion of the</p> <p>10 record was read by the reporter at</p> <p>11 4:55 p.m.):</p> <p>12 Q. So you were unaware for all the months</p> <p>13 you were at the City of Warren that there</p> <p>14 was a general order dealing with</p> <p>15 discrimination and sexual harassment?)</p> <p>16 A. No.</p> <p>17 BY MR. ACHO:</p> <p>18 Q. You were also aware that there was a general order</p> <p>19 dealing with rules of conduct in the police</p> <p>20 department, were you not?</p> <p>21 A. I was not.</p> <p>22 Q. Did you, at any time, make any complaints to the mayor</p> <p>23 that -- or to human resources, that you requested</p> <p>24 general orders and they were not provided to you, did</p> <p>25 you ever do that?</p>
<p style="text-align: right;">Page 232</p> <p>1 persons toward them and in that they would have the</p> <p>2 ability to retaliate or to jeopardize one's life or</p> <p>3 whatever, in that instance, I can see where a person</p> <p>4 may not come forward.</p> <p>5 BY MR. ACHO:</p> <p>6 Q. But you had no knowledge DeSheila Howlett was</p> <p>7 intimidated, correct, no personal knowledge?</p> <p>8 A. That's correct.</p> <p>9 Q. So if she had -- okay. We'll move on. Now, we were</p> <p>10 talking about things in the union contract about not</p> <p>11 having discrimination. You said there should be</p> <p>12 something in the contract, correct?</p> <p>13 A. Ideally, yes.</p> <p>14 Q. But wasn't there something in the police department</p> <p>15 that addressed discrimination, harassment, wasn't</p> <p>16 there something already in place over and above the</p> <p>17 union contract?</p> <p>18 A. Not that I'm aware of.</p> <p>19 Q. In the 11 months that you were there didn't you read</p> <p>20 the general orders 0301 and 0302?</p> <p>21 A. No, sir.</p> <p>22 Q. You never did?</p> <p>23 A. No, sir.</p> <p>24 Q. So you were unaware for all the months you were at the</p> <p>25 City of Warren that there was a general order dealing</p>	<p style="text-align: right;">Page 234</p> <p>1 A. No, sir.</p> <p>2 Q. You could have told the mayor in your three to four</p> <p>3 conversations a week, hey, you know, I'm asking for</p> <p>4 some things from Green, I'm not getting them, you</p> <p>5 never did that?</p> <p>6 A. That's not correct.</p> <p>7 Q. Did you tell him, I asked for certain things from</p> <p>8 Green like general orders and I didn't get them, did</p> <p>9 you? Yes or no?</p> <p>10 A. I did tell the mayor and the mayor was aware that I</p> <p>11 had requested documents and information from Jere</p> <p>12 Green that I have not been provided.</p> <p>13 Q. Can I see any memorandum that will support what you</p> <p>14 just told us, is there such a thing?</p> <p>15 A. There is, and you should get that from your client</p> <p>16 because it's in a written memorandum to the mayor.</p> <p>17 Q. When?</p> <p>18 A. I want to say August -- I want to say around June or</p> <p>19 July.</p> <p>20 Q. And you specifically identified documents you didn't</p> <p>21 receive?</p> <p>22 A. To the mayor, yes.</p> <p>23 Q. Well, when you didn't get them after that, what did</p> <p>24 you do about it, nothing, right?</p> <p>25 A. Well --</p>

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<p style="text-align: right;">Page 235</p> <p>1 MR. MARKO: Objection to form.</p> <p>2 Go ahead.</p> <p>3 A. I believed that by speaking to the mayor about it,</p> <p>4 given his telling me not to engage directly to</p> <p>5 department heads, that he would take that up and he</p> <p>6 didn't.</p> <p>7 BY MR. ACHO:</p> <p>8 Q. But you didn't follow up, did you? You didn't follow</p> <p>9 up after that?</p> <p>10 A. I spoke with the mayor about not receiving them, yes.</p> <p>11 Q. No, after this memorandum that you say you sent, you</p> <p>12 never followed up with the mayor after that, did you?</p> <p>13 A. Yes, I did.</p> <p>14 Q. After June and July?</p> <p>15 A. After I did not receive them I shared with the mayor</p> <p>16 that I did not receive them.</p> <p>17 Q. We're talking subsequent to that. Subsequent to June</p> <p>18 and July when you advised the mayor in a memo, did you</p> <p>19 do follow up with the mayor after that, yes or no?</p> <p>20 A. We did speak about it again, yes, just prior to</p> <p>21 Mr. Green being let go.</p> <p>22 Q. Okay. Let me ask you about Mr. Green. How many times</p> <p>23 did you ever meet with him?</p> <p>24 A. Privately, once.</p> <p>25 Q. So in 11 months you only met with the police</p>	<p style="text-align: right;">Page 237</p> <p>1 A. No, sir.</p> <p>2 Q. You don't?</p> <p>3 A. No, sir.</p> <p>4 Q. Didn't you yell at this gentleman, Lieutenant, and</p> <p>5 swear at him about something?</p> <p>6 A. No, sir, and that's -- I want to say right now that I</p> <p>7 feel very uncomfortable about Lieutenant Bradley's</p> <p>8 presence here because I very well may be called on to</p> <p>9 testify at -- in a formal complaint that the</p> <p>10 Department of Justice is conducting regarding the</p> <p>11 treatment of deaf people by the Warren Police</p> <p>12 Department, and I feel very uncomfortable about his</p> <p>13 presence here and you going in that direction because</p> <p>14 I don't want to have to share my testimony with him in</p> <p>15 advance of that being concluded.</p> <p>16 Q. Sir, your credibility is at issue in this matter.</p> <p>17 A. Not to me.</p> <p>18 Q. Yes, it is --</p> <p>19 A. Oh, okay.</p> <p>20 Q. -- because I've asked you about various things --</p> <p>21 A. Yes.</p> <p>22 Q. -- including the Department of Justice.</p> <p>23 A. Yes.</p> <p>24 Q. Now, understand, I want to make sure I understand --</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 236</p> <p>1 commissioner once?</p> <p>2 A. That's correct.</p> <p>3 Q. And, yet, you were charged with enhancing the number</p> <p>4 of minorities in the police department?</p> <p>5 A. Correct, the mayor prohibited me from speaking with</p> <p>6 Commissioner Green.</p> <p>7 Q. Wasn't the prohibition because you did something you</p> <p>8 shouldn't have done?</p> <p>9 A. No.</p> <p>10 Q. Well, let me ask you, did you make some mistakes while</p> <p>11 you were working at the City of Warren? Did you make</p> <p>12 mistakes?</p> <p>13 A. Not that I'm aware of. None that I've been notified</p> <p>14 of.</p> <p>15 Q. Well, didn't you go ahead and schedule things for the</p> <p>16 police department without their prior concept?</p> <p>17 A. No.</p> <p>18 Q. Well, let me understand something, there was some</p> <p>19 friction between you and the police department,</p> <p>20 correct?</p> <p>21 A. No. No, sir.</p> <p>22 Q. No friction, no, sir?</p> <p>23 A. Not between me and the police department, no, sir.</p> <p>24 Q. Let me clarify it. You know what I'm talking about,</p> <p>25 don't you?</p>	<p style="text-align: right;">Page 238</p> <p>1 Q. -- the Department of Justice had gone to a number of</p> <p>2 cities and got consent decrees, right?</p> <p>3 A. I assume so.</p> <p>4 Q. You testified to that in your first day of testimony,</p> <p>5 don't you remember?</p> <p>6 A. The Department of Justice does that nationwide so</p> <p>7 that's why I say yes.</p> <p>8 Q. Okay. And the City of Warren entered into a consent</p> <p>9 decree, correct --</p> <p>10 A. Yes.</p> <p>11 Q. -- like other cities, right?</p> <p>12 A. Yes.</p> <p>13 Q. And that consent decree ended in, what, 2002?</p> <p>14 A. 2002.</p> <p>15 Q. Okay. Now, you are involved in diversity --</p> <p>16 A. Yes.</p> <p>17 Q. -- and you made some statement on television about the</p> <p>18 City of Warren is not really committed to diversity,</p> <p>19 correct?</p> <p>20 A. I said the mayor is not committed to the -- to --</p> <p>21 genuinely committed to diversity.</p> <p>22 Q. Well, he's either committed or he isn't, which is it?</p> <p>23 A. I don't believe he is. I believe that it's a</p> <p>24 political calculation that when I began -- actually</p> <p>25 beginning to deeply delve down into diversity, the</p>

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<p style="text-align: right;">Page 239</p> <p>1 mayor told me that he wanted to keep diversity on the 2 back burner until after the 2019 election because he 3 was concerned about a white voter backlash because the 4 residents of Warren were not ready for diversity. 5 Q. But that's what you told him, you said that to him? 6 A. That's what the mayor told me. 7 Q. But he wanted to hire a black human resources director 8 and you said no, don't do it now, you know, you're 9 going to get a lot of pushback, that you're hiring too 10 many blacks. Are you denying that under oath? 11 A. Yes. 12 MR. MARKO: Assumes facts not in evidence. 13 BY MR. ACHO: 14 Q. Okay. Did the mayor talk to you about hiring an 15 African-American as a human resources director? 16 A. Yes. 17 Q. What did he say? 18 A. He asked me to try to find an African-American female 19 over the age of 60 because she would be a two-fer. 20 Q. Okay. What did you say? 21 A. And I said I'd look. 22 Q. Okay. And who did you recommend that he hire? 23 A. He has the names of those three people. I can't 24 remember them offhand but I handed him the resumes for 25 all three of them.</p>	<p style="text-align: right;">Page 241</p> <p>1 too many blacks, you're doing it too fast, you deny 2 that? 3 A. That part I did share with the mayor. 4 Q. Okay. Tell us what you said, because you are under 5 oath? 6 A. Okay. I shared with the mayor, based on what he had 7 shared with me about Dean Berry (phonetic) and some 8 other people, he might want to hold up on that and to 9 space it out. 10 Q. That's what he told me this morning. 11 A. Good. Good. 12 Q. You may want to hold up and space it out, that you 13 told him that, hold up, hold up. 14 A. Based on what the mayor told to me. 15 Q. But that's your words? 16 A. Yes. 17 Q. Mayor, hold up, yes, you said that? 18 A. Yes. 19 Q. Don't hire more blacks right now, that's what you told 20 him? 21 A. I told the mayor to space it out, but the mayor does 22 what the mayor wants to do. 23 Q. Okay. I appreciate what you're saying now. When you 24 say hold up, hold up means stop, hold up? 25 A. No, it means delay, not stop.</p>
<p style="text-align: right;">Page 240</p> <p>1 Q. Okay. Give me your best recollection. I assume you 2 knew them if you were going to recommend them? 3 A. I did not know them. I met and discussed the 4 possibility of their applying to the City of Warren 5 for those positions. I did not know them. 6 Q. So you recommended people you didn't know? 7 A. I recommended people that I met and queried, 8 interviewed and -- and discussed the position with. 9 Q. What are their names? 10 A. I believe one person, his name is Paul. I'd have to 11 give it some time to remember those three names. 12 Q. How about when we finish the dep? 13 A. I'll try to remember. 14 Q. So you gave those names to the mayor? 15 A. I gave the mayor the resumes of the three people. 16 Q. When did you do that? 17 A. Probably August. Around August -- August or 18 September. 19 Q. Is that the time you told Simlar, the mayor is looking 20 to get rid of you? You told him that? 21 A. No, I did not tell him that. 22 Q. Okay. So you deny that you told the mayor, don't hire 23 a black as the HR director, you deny that? 24 A. Yes. 25 Q. You deny that you told the mayor, look, you're hiring</p>	<p style="text-align: right;">Page 242</p> <p>1 Q. Okay. Delay? 2 A. Yes. 3 Q. Delay means don't do it now, correct? 4 A. Space it out, yes. 5 Q. So you told him to delay hiring African-Americans? 6 A. In response to what he said to me. 7 Q. Okay. I'm just looking -- I'm just trying to get your 8 words. 9 A. I understand. 10 Q. You told the mayor, hold up, delay hiring of 11 African-Americans, true? 12 A. No, sir. 13 Q. Okay. Why would you say that to him? 14 MR. MARKO: Objection, he just said he 15 didn't say it. 16 MR. ACHO: No, he said he did. 17 MR. MARKO: It's an improper question. 18 BY MR. ACHO: 19 Q. You did say it, you said hold up? 20 MR. MUNGO: Objection, argumentative. 21 BY MR. ACHO: 22 Q. Didn't you say, hold up, delay? 23 A. I said delay. 24 Q. You said, hold up, you used the words, hold up, that's 25 what the mayor said?</p>

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<p style="text-align: right;">Page 243</p> <p>1 A. Delay.</p> <p>2 Q. The mayor said you said, hold up, delay, that you used</p> <p>3 both words?</p> <p>4 A. Paraphrasing, delay.</p> <p>5 Q. Why, if you're the diversity coordinator, would you</p> <p>6 ever support delaying affirmative action?</p> <p>7 A. I would not support deferring or delaying affirmative</p> <p>8 action. What I would not support is the backlash that</p> <p>9 the mayor said he anticipated by hiring three</p> <p>10 African-Americans in a row for department heads. He</p> <p>11 wanted a -- principally females so he could have what</p> <p>12 he called was two-fers and so, based on what he said</p> <p>13 to me, you might want to delay this for a while</p> <p>14 because of what you shared with me about Dean Berry,</p> <p>15 about Scott Stevens, on the city counsel and about the</p> <p>16 voters.</p> <p>17 Q. So really you were being an enabler, weren't you?</p> <p>18 A. No, sir.</p> <p>19 Q. Well, here a man says --</p> <p>20 A. It was strategic, it wasn't enabling.</p> <p>21 Q. It was -- okay. Your advice to the mayor to delay the</p> <p>22 hiring --</p> <p>23 A. I never told him not to hire a person of color.</p> <p>24 Q. You know, you shouldn't interrupt.</p> <p>25 A. I apologize.</p>	<p style="text-align: right;">Page 245</p> <p>1 mischaracterizes his testimony.</p> <p>2 A. What I shared with him was based on what he said to me</p> <p>3 about his concerns. This was a conversation going</p> <p>4 back and forth about his concerns regarding whether or</p> <p>5 not residents in Warren would tolerate diversity, et</p> <p>6 cetera. Those were his concerns. You might want to</p> <p>7 delay that, it was in response to his statements to</p> <p>8 me.</p> <p>9 BY MR. ACHO:</p> <p>10 Q. But you could have spoke your mind. Do you remember</p> <p>11 you told us when you got hired you would speak your</p> <p>12 mind, correct?</p> <p>13 A. I said with discretion.</p> <p>14 Q. Okay. You could use discretion and have been polite</p> <p>15 and say, Mr. Mayor, I respectfully feel you need to</p> <p>16 hire that African-American woman to be the human</p> <p>17 resources director, you could have done that?</p> <p>18 A. I gave him three that I recommended that he choose one</p> <p>19 from to hire so I actually was promoting that, but as</p> <p>20 for the timing of it, based on what he said his</p> <p>21 concerns were --</p> <p>22 Q. Okay. How long did you want him to wait? How long</p> <p>23 did you want --</p> <p>24 A. That's up to the mayor, it's not up to me.</p> <p>25 Q. How long were you recommending the mayor wait?</p>
<p style="text-align: right;">Page 244</p> <p>1 Q. Your advice to the mayor to delay the hiring of</p> <p>2 African-Americans --</p> <p>3 A. That's not true, sir.</p> <p>4 Q. -- was strategic?</p> <p>5 A. That's not true. What you just said is not true.</p> <p>6 Q. Your advice to the mayor was to either hold up or</p> <p>7 delay the hiring of African-Americans as department</p> <p>8 heads, correct?</p> <p>9 A. That's not true. No, sir. What I said was that you</p> <p>10 might want to delay this appointment based on what you</p> <p>11 shared with me and your concerns regarding the</p> <p>12 backlash that it would create.</p> <p>13 Q. Okay. So your advice to the mayor to delay the hiring</p> <p>14 of an African-American woman into the position of</p> <p>15 human resource director, in your view, was strategic,</p> <p>16 correct?</p> <p>17 A. Yes.</p> <p>18 Q. You believe it is consistent with your job description</p> <p>19 as the diversity and inclusion coordinator?</p> <p>20 A. Yes, the potential consequence of which he may not</p> <p>21 been able to hire anymore after that, which to me</p> <p>22 would have been a grave situation.</p> <p>23 Q. So you think it was a good idea not to hire an</p> <p>24 African-American woman at that time, right?</p> <p>25 MR. MARKO: Objection, that</p>	<p style="text-align: right;">Page 246</p> <p>1 A. I did not recommend a time frame.</p> <p>2 Q. But you're saying because of the backlash. The</p> <p>3 backlash could have lasted a year, two years, right?</p> <p>4 True?</p> <p>5 A. I'm not aware of what the consequences of that would</p> <p>6 have been. Again, the backlash was the voters in the</p> <p>7 2019 election.</p> <p>8 Q. Okay. So I understand this right, in 2017 you are</p> <p>9 recommending the mayor hold up hiring an</p> <p>10 African-American woman until the 2019 election?</p> <p>11 MR. MUNGO: Objection, mischaracterization</p> <p>12 of the deponent's testimony.</p> <p>13 A. No, sir.</p> <p>14 BY MR. ACHO:</p> <p>15 Q. Okay. I guess I need you to help me because I am at a</p> <p>16 loss to understand where you're coming from.</p> <p>17 A. All right.</p> <p>18 Q. You're the diversity and inclusion coordinator for the</p> <p>19 City of Warren?</p> <p>20 A. Correct.</p> <p>21 Q. No other city in southeast Michigan has that except</p> <p>22 Warren?</p> <p>23 A. To my knowledge.</p> <p>24 Q. Okay. And the mayor brought you in and paid you a</p> <p>25 good deal of money so you could get more</p>

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<p style="text-align: right;">Page 247</p> <p>1 African-Americans into the City as employees, right?</p> <p>2 A. Yes.</p> <p>3 Q. And, yet, at that time, in the summer of 2017, you</p> <p>4 tell him to delay, don't hire that African-American</p> <p>5 woman?</p> <p>6 MR. MARKO: Objection, asked and answered.</p> <p>7 BY MR. ACHO:</p> <p>8 Q. Is that correct? Am I correct?</p> <p>9 MR. MARKO: Go ahead.</p> <p>10 BY MR. ACHO:</p> <p>11 Q. Am I correct or should I rephrase it?</p> <p>12 A. What I shared was, based on what the mayor said to me</p> <p>13 was his concerns, and this was all one conversation</p> <p>14 regarding Dean --</p> <p>15 Q. You've been --</p> <p>16 MR. MARKO: Wait.</p> <p>17 BY MR. ACHO:</p> <p>18 Q. I'm going to ask this question again.</p> <p>19 A. I'm going to answer the same way because I want to</p> <p>20 provide you with the correct answer.</p> <p>21 MR. MARKO: Go ahead.</p> <p>22 A. If you want the truth you won't interrupt me as much.</p> <p>23 BY MR. ACHO:</p> <p>24 Q. I don't want the background. It's a specific</p> <p>25 question.</p>	<p style="text-align: right;">Page 249</p> <p>1 pool to eventually rise up to the point where they</p> <p>2 would be at the top of the civil service commission's</p> <p>3 list and, thus, be hired by the City.</p> <p>4 Q. Is there a document that is a program that you</p> <p>5 developed that's in writing, yes or no?</p> <p>6 A. My --</p> <p>7 Q. Yes or no?</p> <p>8 MR. MARKO: Go ahead.</p> <p>9 A. My -- my request to do that is in writing and was</p> <p>10 approved by the mayor.</p> <p>11 BY MR. ACHO:</p> <p>12 Q. A program, not a request?</p> <p>13 A. It's a --</p> <p>14 Q. Did you put together a program, either you did or you</p> <p>15 didn't?</p> <p>16 MR. MARKO: No, go ahead answer the</p> <p>17 question.</p> <p>18 A. Again, I made recommendations that I can only carry</p> <p>19 out through the mayor. I made a recommendation, and</p> <p>20 you might not call this a program, that we develop a</p> <p>21 diversity committee to help develop, identify best</p> <p>22 practices and make recommendations on a formal basis</p> <p>23 and the mayor declined and rejected that idea.</p> <p>24 BY MR. ACHO:</p> <p>25 Q. Okay. But you didn't answer my question. Did you</p>
<p style="text-align: right;">Page 248</p> <p>1 A. It's not a yes or no question.</p> <p>2 Q. Did you recommend to the mayor to delay hiring an</p> <p>3 African-American woman, yes or no?</p> <p>4 MR. MARKO: Asked and answered.</p> <p>5 MR. MUNGO: Objection to counsel's tone as</p> <p>6 it is -- it is demeaning and insulting.</p> <p>7 A. Based on what the mayor told me during that same</p> <p>8 conversation, yes.</p> <p>9 BY MR. ACHO:</p> <p>10 Q. Okay. Now, as a diversity and inclusion coordinator</p> <p>11 you were supposed to develop, implement and monitor</p> <p>12 programs, practices and procedures that promote</p> <p>13 diversity and inclusion within the City of Warren,</p> <p>14 right? Correct?</p> <p>15 A. Yes.</p> <p>16 Q. Please tell me what program did you develop for the</p> <p>17 City of Warren that promoted diversity and inclusion,</p> <p>18 can you show it to me?</p> <p>19 A. I can, yes.</p> <p>20 Q. It exists?</p> <p>21 A. It exists in the fact that I brought on the National</p> <p>22 Organization of Black Law Enforcement Executives to</p> <p>23 assist the City of Warren's police department in</p> <p>24 developing a recruitment protocol that would increase</p> <p>25 the number of minority applicants within the candidate</p>	<p style="text-align: right;">Page 250</p> <p>1 develop a program that we can see? Do you have a</p> <p>2 document that is a developed program, yes or no?</p> <p>3 MR. MUNGO: Objection, asked and answered.</p> <p>4 He just said --</p> <p>5 BY MR. ACHO:</p> <p>6 Q. Either you did or didn't?</p> <p>7 MR. MUNGO: Counsel, he just said the mayor</p> <p>8 wouldn't allow him to do it, that's what he said.</p> <p>9 BY MR. ACHO:</p> <p>10 Q. Is that the answer that your lawyer gave you?</p> <p>11 MR. MARKO: Come on.</p> <p>12 A. I said I make recommendations.</p> <p>13 BY MR. ACHO:</p> <p>14 Q. I'm not asking --</p> <p>15 A. You don't understand. You can't develop a program</p> <p>16 without the mayor's permission.</p> <p>17 Q. You can just say no, I didn't, and then your lawyers</p> <p>18 can ask you why, okay?</p> <p>19 MR. MARKO: Asked and answered. He's</p> <p>20 explained to you why he wasn't able to do that.</p> <p>21 BY MR. ACHO:</p> <p>22 Q. Did you develop a program for diversity and inclusion,</p> <p>23 yes or no? Do you have a program?</p> <p>24 MR. MUNGO: Objection, asked and answered.</p> <p>25 He said the mayor wouldn't allow him to do it,</p>

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<p style="text-align: right;">Page 251</p> <p>1 Counsel.</p> <p>2 BY MR. ACHO:</p> <p>3 Q. Then you can answer that yes or no?</p> <p>4 MR. MARKO: Asked and answered.</p> <p>5 A. I answered your question.</p> <p>6 BY MR. ACHO:</p> <p>7 Q. No, you didn't.</p> <p>8 A. I'll answer the same way. You can't initiate a</p> <p>9 program without the mayor's permission that --</p> <p>10 Q. So you didn't?</p> <p>11 A. That he made --</p> <p>12 Q. All you do is say you didn't --</p> <p>13 A. He prohibited me --</p> <p>14 MR. MUNGO: No, objection, asked and</p> <p>15 answered. He said the mayor prohibited him.</p> <p>16 BY MR. ACHO:</p> <p>17 Q. Did you implement any program of diversity and</p> <p>18 inclusion, did you implement any, yes or no?</p> <p>19 MR. MUNGO: Objection, asked and answered.</p> <p>20 MR. ACHO: It's a different question.</p> <p>21 MR. MUNGO: It's the same question.</p> <p>22 A. I did develop and implement the All Access Warren</p> <p>23 project --</p> <p>24 BY MR. ACHO:</p> <p>25 Q. Okay.</p>	<p style="text-align: right;">Page 253</p> <p>1 (Recess taken at 5:16 p.m.)</p> <p>2 (Back on the record at 5:19 p.m.)</p> <p>3 BY MR. ACHO:</p> <p>4 Q. I want to ask you something, Mr. Murray, when did you</p> <p>5 begin talking to Mr. Mungo about DeSheila Howlett?</p> <p>6 A. I was subpoenaed and someone knocked on my door,</p> <p>7 served me with a subpoena to arrive -- to come to the</p> <p>8 deposition to be deposed and that day --</p> <p>9 Q. Yeah, but you talked to him because you prepared an</p> <p>10 affidavit?</p> <p>11 A. I did not talk to him.</p> <p>12 Q. Who did you speak with?</p> <p>13 A. His -- Desiree Turner, I believe is her name.</p> <p>14 Q. Does she work for him?</p> <p>15 MR. MARKO: Foundation.</p> <p>16 BY MR. ACHO:</p> <p>17 Q. Who's Desiree Turner?</p> <p>18 A. She was an investigator that came to me and --</p> <p>19 Q. From Mr. Mungo's office --</p> <p>20 MR. MARKO: Foundation.</p> <p>21 BY MR. ACHO:</p> <p>22 Q. -- right?</p> <p>23 A. I assume so, yes.</p> <p>24 Q. Sure. She told you, she gave you her card, didn't</p> <p>25 she?</p>
<p style="text-align: right;">Page 252</p> <p>1 A. -- which dealt with persons with disabilities, which</p> <p>2 is a part of the diversity community --</p> <p>3 Q. Okay.</p> <p>4 A. -- and that is in writing.</p> <p>5 Q. Okay.</p> <p>6 A. It is in existence now, I hope, and the mayor has</p> <p>7 numerous memos from me regarding that.</p> <p>8 Q. Okay. Well, that's all we're asking for. I just want</p> <p>9 to see what you actually accomplished and so that's</p> <p>10 one of them, right?</p> <p>11 A. I needed to understand what you meant by --</p> <p>12 Q. Okay. Now, how many programs did you monitor and</p> <p>13 practices and procedures that you monitored that</p> <p>14 promoted diversity and inclusion, how many programs</p> <p>15 did you monitor?</p> <p>16 A. What is your definition of programs? I want to answer</p> <p>17 your question.</p> <p>18 Q. Is it in your job description?</p> <p>19 MR. MUNGO: Let him see the job</p> <p>20 description.</p> <p>21 A. As I said before --</p> <p>22 MR. MUNGO: Let's make a copy of that so we</p> <p>23 can see it.</p> <p>24 Can you make a copy?</p> <p>25 MR. MARKO: Then we have to stop.</p>	<p style="text-align: right;">Page 254</p> <p>1 MR. MUNGO: Objection, assuming a fact</p> <p>2 that's not in evidence. She is not from my office.</p> <p>3 BY MR. ACHO:</p> <p>4 Q. Go ahead.</p> <p>5 A. Yes.</p> <p>6 Q. Okay. So she asked for this affidavit?</p> <p>7 A. Yes.</p> <p>8 Q. And she prepared it for you and you signed it?</p> <p>9 A. Yes.</p> <p>10 Q. So we're clear, how did you happen to talk to her?</p> <p>11 A. She showed up at my house.</p> <p>12 Q. Well, do you talk to everybody who shows up at your</p> <p>13 house?</p> <p>14 A. That's a ridiculous question.</p> <p>15 Q. No, do you --</p> <p>16 A. The majority of the people, yes.</p> <p>17 Q. You didn't know this woman?</p> <p>18 A. She identified herself to me.</p> <p>19 Q. And she just knocked on your door, she didn't call you</p> <p>20 in advance?</p> <p>21 A. That's right, she just showed up at my door.</p> <p>22 Q. And you invited her in?</p> <p>23 A. Yes, sir.</p> <p>24 Q. What did she say to you?</p> <p>25 A. That she was working on a case and wanted to ask me</p>

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<p>1 some questions regarding my tenure there at the City 2 of Warren.</p> <p>3 Q. Who did she say she was working for?</p> <p>4 A. I believe she said she was working on the case. She 5 didn't tell me she was working for Mr. Mungo. She 6 told me she was working on the case.</p> <p>7 Q. Well, didn't you ask her?</p> <p>8 A. No, why? Why do I have to ask? She answered my 9 question.</p> <p>10 Q. How do you know that she was legitimate?</p> <p>11 A. She showed me a card.</p> <p>12 Q. What was on the card? What was on the card?</p> <p>13 A. The card was her name, investigator, and the name of 14 the agency. I recognized the name of the agency 15 because, back in the day, I had hired the person who 16 owned the agency, Julianne Cuneo, and I knew her from 17 when I hired her when I was at the Detroit Free Press 18 so I was aware of the agency itself.</p> <p>19 Q. What was the name?</p> <p>20 A. Sunshine Investigations.</p> <p>21 Q. Do you know who hired Sunshine Investigations?</p> <p>22 A. No.</p> <p>23 Q. But did you tell this investigator that DeSheila 24 Howlett's case was bullshit or --</p> <p>25 A. No.</p>	<p>1 question.</p> <p>2 A. Uh-huh.</p> <p>3 Q. The truth is, your opinion has been, because you've 4 told multiple people beyond this room, that DeSheila 5 Howlett doesn't have a case, correct, you said that 6 under oath?</p> <p>7 MR. MARKO: Objection, that is a legal 8 conclusion.</p> <p>9 BY MR. ACHO:</p> <p>10 Q. Go ahead.</p> <p>11 A. As I said before, I'm not an attorney. Based on what 12 limited information I had, I drew that conclusion.</p> <p>13 Q. Okay. And if she would have put that, this woman, the 14 investigator, in the affidavit, if she would have put 15 that in, you would have signed the affidavit?</p> <p>16 MR. MARKO: Objection.</p> <p>17 A. I would have asked her to take it out.</p> <p>18 BY MR. ACHO:</p> <p>19 Q. You would have asked her to take it out?</p> <p>20 A. Yes, sir.</p> <p>21 Q. But it was the truth, right?</p> <p>22 MR. MUNGO: Objection, argumentative, 23 Counsel.</p> <p>24 MR. MARKO: And it calls for a legal 25 conclusion.</p>
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<p>1 Q. But you told us earlier that you told multiple people 2 that DeSheila Howlett did not have a case?</p> <p>3 A. Based on my limited expertise, yes.</p> <p>4 Q. How come it's not in your affidavit? Your affidavit 5 didn't say that, did it?</p> <p>6 A. She didn't ask me.</p> <p>7 Q. Okay. So your affidavit is incomplete, correct?</p> <p>8 MR. MARKO: Objection, assumes facts not in 9 evidence.</p> <p>10 A. I wouldn't say that, no.</p> <p>11 BY MR. ACHO:</p> <p>12 Q. If she would have put in, I, Gregory Murray, fully 13 sworn deponent, say that I believe DeSheila Howlett 14 has no case, you would have signed it?</p> <p>15 MR. MARKO: Objection, speculation and that 16 calls for a legal conclusion.</p> <p>17 BY MR. ACHO:</p> <p>18 Q. True, you would have?</p> <p>19 A. No, I probably would not have said that to her.</p> <p>20 Q. Why, that would have been the truth, right? You said 21 you tell the truth.</p> <p>22 A. She didn't solicit that response from me.</p> <p>23 Q. I didn't ask you that.</p> <p>24 A. I answered it.</p> <p>25 Q. Wait. Wait. Wait. You have to listen to my</p>	<p>1 BY MR. ACHO:</p> <p>2 Q. You said you tell the truth, don't you?</p> <p>3 A. I do.</p> <p>4 Q. And the truth is you believed, and do believe now, 5 DeSheila Howlett doesn't have a case?</p> <p>6 MR. MUNGO: Objection, mischaracterizes his 7 testimony, Counsel.</p> <p>8 MR. MARKO: And it calls for --</p> <p>9 MR. MUNGO: You are badgering this witness.</p> <p>10 MR. MARKO: And it calls for a legal 11 conclusion.</p> <p>12 A. No.</p> <p>13 BY MR. ACHO:</p> <p>14 Q. No, what?</p> <p>15 A. No.</p> <p>16 Q. No, what?</p> <p>17 A. You put so many things inside of that question that I 18 have to answer, no. If she had put that in the 19 affidavit I would have had her strike it because it's 20 just a nonlegal opinion on my part.</p> <p>21 (Mr. Mungo left the deposition room at 22 5:24 p.m.)</p> <p>23 BY MR. ACHO:</p> <p>24 Q. Wait a minute. But you got on television --</p> <p>25 A. Yes.</p>

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<p style="text-align: right;">Page 259</p> <p>1 Q. -- and said she was a victim of discrimination, right?</p> <p>2 MR. MARKO: Objection, mischaracterizes his</p> <p>3 testimony, assumes facts not in evidence.</p> <p>4 A. I've never said that on television or to any reporter.</p> <p>5 BY MR. ACHO:</p> <p>6 Q. So you're not backing up DeSheila Howlett, are you?</p> <p>7 MR. MARKO: Objection to form.</p> <p>8 A. I don't understand what you mean.</p> <p>9 BY MR. ACHO:</p> <p>10 Q. You're not supporting her allegations, are you?</p> <p>11 MR. MARKO: Objection to foundation as to</p> <p>12 what her allegations are and it calls for a legal</p> <p>13 conclusion.</p> <p>14 A. That's for a finder of fact to determine.</p> <p>15 (Mr. Mungo entered the deposition room at</p> <p>16 5:25 p.m.)</p> <p>17 BY MR. ACHO:</p> <p>18 Q. Well, aren't your opinions about Mayor Fouts not</p> <p>19 genuinely interested in adopting practices, that's for</p> <p>20 a legal conclusion, isn't it?</p> <p>21 A. Not that I'm aware of, sir. There are no legal</p> <p>22 consequences to my making that statement.</p> <p>23 Q. No legal consequences?</p> <p>24 A. Not that I'm aware of.</p> <p>25 Q. By the way, why did you go on television, can you tell</p>	<p style="text-align: right;">Page 261</p> <p>1 A. Yes.</p> <p>2 Q. What happened with that lawsuit?</p> <p>3 A. It was dismissed.</p> <p>4 Q. You got paid?</p> <p>5 A. No, sir.</p> <p>6 Q. It was dismissed that your allegations were not</p> <p>7 supportable, correct?</p> <p>8 MR. MARKO: Objection, that calls for a</p> <p>9 legal conclusion and foundation.</p> <p>10 BY MR. ACHO:</p> <p>11 Q. Go ahead.</p> <p>12 A. I lost the lawsuit.</p> <p>13 Q. Who was your attorney?</p> <p>14 A. That was so long ago. You'd have to give me some time</p> <p>15 to remember that.</p> <p>16 Q. Okay. So we need two things. Let's make a note. Do</p> <p>17 you remember the names of those three women, by the</p> <p>18 way?</p> <p>19 A. The people on the -- on the nightshift?</p> <p>20 Q. No, I'm sorry, the --</p> <p>21 A. What three women?</p> <p>22 Q. The three women that you recommended to the mayor?</p> <p>23 A. Not yet.</p> <p>24 Q. Okay. Now, you say the mayor was not committed to</p> <p>25 diversity, correct?</p>
<p style="text-align: right;">Page 260</p> <p>1 me?</p> <p>2 A. I was asked why I resigned.</p> <p>3 Q. Why did you go on television?</p> <p>4 A. I was asked why I resigned and there had been</p> <p>5 statements made in the press disparaging my integrity</p> <p>6 and --</p> <p>7 Q. Let me understand, we're going to talk about your</p> <p>8 integrity -- by the way, were you ever fired?</p> <p>9 A. Yes.</p> <p>10 Q. You were?</p> <p>11 A. Yes.</p> <p>12 Q. How many times?</p> <p>13 A. Once.</p> <p>14 Q. By who?</p> <p>15 A. A hospital.</p> <p>16 Q. Why did they fire you?</p> <p>17 A. Because everyone on the shift was held responsible for</p> <p>18 not processing a patient in emergency properly.</p> <p>19 Q. Did you believe it was discriminatory?</p> <p>20 A. That had nothing to do with discrimination.</p> <p>21 Q. Did you believe it was discriminatory?</p> <p>22 A. No, not that case, at Riverview Hospital.</p> <p>23 Q. Did you do anything about it?</p> <p>24 A. Yes, I sued.</p> <p>25 Q. You did file a lawsuit?</p>	<p style="text-align: right;">Page 262</p> <p>1 A. Correct.</p> <p>2 Q. Now, that's based upon your 11 months there, correct?</p> <p>3 A. It's based on the statement by the mayor to me</p> <p>4 directly that he wanted me to put diversity on the</p> <p>5 back burner until after the 2019 election because he</p> <p>6 was fearful of a backlash by white voters.</p> <p>7 Q. Just so I'm clear, your sole opinion that Mayor Fouts</p> <p>8 was not committed to diversity was based upon the 2019</p> <p>9 election, deferring things?</p> <p>10 A. No, sir.</p> <p>11 Q. Well, was there anything else?</p> <p>12 A. His behavior, his statements to me, his not -- not</p> <p>13 allowing me to do certain things like create a</p> <p>14 diversity committee, et cetera, those were the primary</p> <p>15 reasons that I came to the conclusion that the mayor</p> <p>16 was not genuine about diversity but, most importantly,</p> <p>17 that he told me he intended to put diversity on the</p> <p>18 back burner until the 2019 election and he wanted me</p> <p>19 to take up being the liaison between the City of</p> <p>20 Warren and the census bureau, which is an altogether</p> <p>21 different job, well outside the scope of my job</p> <p>22 description.</p> <p>23 Q. Mayor Fouts, you told us earlier you liked him,</p> <p>24 correct?</p> <p>25 A. Yes, I did.</p>

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<p style="text-align: right;">Page 263</p> <p>1 Q. And he was always kind to you and respectful to you, 2 wasn't he? 3 A. Yes. 4 Q. And, personally, you enjoyed working with him, 5 correct? 6 A. Yes. 7 Q. Okay. Now, were you aware when you made the public 8 comments that the mayor is not committed to diversity 9 of these following things -- I'm going to ask you one 10 after another to see if you're aware of it. 11 A. Okay. 12 Q. Were you aware that he appointed the first 13 African-American fire commissioner in Macomb County, 14 were you aware of that? 15 A. Yes. 16 Q. And you still feel that he isn't committed to 17 diversity, correct? 18 A. I now understand that these were political 19 calculations being played out. 20 Q. Okay. So, in other words, if Mayor Fouts hired or 21 promoted African-Americans or Arab-Americans or women, 22 the sole purpose, in your mind, is political, correct? 23 A. I would not say, sole. 24 Q. Primarily political, that's what you're telling us 25 now?</p>	<p style="text-align: right;">Page 265</p> <p>1 of other people. 2 Q. But you didn't like them, you worked with them but you 3 didn't like them? 4 A. You can like a person's idiosyncrasies without liking 5 what they do. 6 Q. Okay. Did you know he appointed the first, second, 7 third, fourth and fifth and sixth African-American 8 members of the planning commission, did you know that? 9 A. Yes. 10 Q. Now, let me ask you this, is your opinion that these 11 appointments were all political expediency, yes or no? 12 MR. MARKO: Asked and answered. 13 A. You're asking me my opinion, my opinion is some of 14 them, yes. 15 BY MR. ACHO: 16 Q. But the other is not, it wasn't political? 17 MR. MARKO: That mischaracterizes his 18 testimony. 19 BY MR. ACHO: 20 Q. What do you mean? 21 A. Some of them possibly were. 22 Q. And some possibly were not? 23 A. True. 24 Q. All right. Let's go with this, do you know that 25 currently a majority of the planning commission are</p>
<p style="text-align: right;">Page 264</p> <p>1 A. What I'm telling you now is, is that I believe that 2 the mayor has appointed people of color as a political 3 calculation. 4 Q. Okay. Now, how do you know -- because I'm going to go 5 through a whole list of these -- 6 A. That's fine. 7 Q. -- and I'm going to ask you for each one, how do you 8 know it's a political calculation, okay? 9 (Mr. Vinson left the deposition room at 10 5:30 p.m.) 11 BY MR. ACHO: 12 Q. Let's take the first one, how do you know hiring the 13 first African-American fire commissioner in Macomb 14 County was a political calculation, how do you know 15 that or is that your guess? 16 A. That's my assessment. 17 Q. That's your guess? 18 A. That's my assessment. 19 Q. Your assessment based on what? 20 A. My assessment based on what the mayor's behavior, as 21 demonstrated to me, has revealed to me during the time 22 I worked there. 23 Q. Even though you say you personally liked him, enjoyed 24 working with him, despite that behavior? 25 A. I've worked with bigots and racists and a whole host</p>	<p style="text-align: right;">Page 266</p> <p>1 nonwhite and that includes Muslims, did you know that? 2 A. Yes, sir. 3 Q. Are you alleging that is strictly political, yes or 4 no? 5 A. It's not a yes or no answer. Some of it, yes, some of 6 it, no. 7 Q. Okay. Do you know that Mayor Fouts has appointed 8 several women of all ages to different positions 9 throughout the City of Warren, did you know that? 10 A. Yes. 11 Q. Do you say that that's political? 12 A. Some possibly would be, yes. Any appointment is 13 political. 14 Q. Wait a minute. You're suggesting political means -- 15 okay, fine, I'll go on. You know he appointed, the 16 mayor, Greg Jackson to downtown development authority 17 and became the first African-American to sit on the 18 downtown development authority board, which is 19 prestigious, did you know that? 20 A. Yes. 21 Q. Are you alleging this somehow was not the act of a 22 good person? 23 A. I wouldn't make that characterization. I would say it 24 was political. Greg Jackson owns five or six 25 dealerships, it's political.</p>

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<p>1 Q. But he's black?</p> <p>2 A. It's a political appointment nonetheless.</p> <p>3 Q. Okay. They're political appointments, that's not what</p> <p>4 I'm getting at. You're saying he's not committed to</p> <p>5 diversity, isn't that what you told the media, yes or</p> <p>6 no?</p> <p>7 A. With respect to changing city government, yes, that's</p> <p>8 correct.</p> <p>9 Q. And here I've identified, what, 10 or 11 so far and</p> <p>10 we're not even near done and you're still standing by</p> <p>11 your guns, right?</p> <p>12 A. Yes, sir.</p> <p>13 Q. Okay. Did you know he appointed Ethan Vinson as the</p> <p>14 first African-American city attorney in the history of</p> <p>15 Warren?</p> <p>16 A. Yes, after I recommended Ethan to the mayor.</p> <p>17 Q. But he hired him, he didn't have to hire an</p> <p>18 African-American, did he?</p> <p>19 A. He was looking to present, I believe, the facade of</p> <p>20 being inclusive and to the --</p> <p>21 Q. That's just your perception?</p> <p>22 A. You asked my opinion.</p> <p>23 Q. But it's only your perception that's a facade?</p> <p>24 A. It's my assessment.</p> <p>25 Q. Your assessment. Do you know Ethan Vinson's</p>	<p>1 Q. Well, didn't Ethan Vinson being the city attorney</p> <p>2 promote genuine diversity?</p> <p>3 A. It gave the appearance of diversity.</p> <p>4 Q. Either he was an enhancement of diversity or not,</p> <p>5 which is it?</p> <p>6 MR. MARKO: Objection.</p> <p>7 MR. MUNGO: Objection.</p> <p>8 MR. MARKO: Objection to form.</p> <p>9 You don't have to answer that.</p> <p>10 BY MR. ACHO:</p> <p>11 Q. Yes, you do.</p> <p>12 MR. MARKO: It's been asked and answered.</p> <p>13 MR. ACHO: You know what, I'll go to court</p> <p>14 if I have to. When we finish this deposition --</p> <p>15 MR. MARKO: Do you have a different answer?</p> <p>16 MR. ACHO: -- I will go into court.</p> <p>17 THE WITNESS: No, I don't have a different</p> <p>18 answer.</p> <p>19 BY MR. ACHO:</p> <p>20 Q. Did it enhance diversity, yes or no?</p> <p>21 MR. MARKO: Asked and answered.</p> <p>22 A. It was a number on a chart.</p> <p>23 BY MR. ACHO:</p> <p>24 Q. But didn't the mayor want you to get a number higher</p> <p>25 on the chart than what the city had, true?</p>
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<p>1 background?</p> <p>2 A. Yes.</p> <p>3 Q. It is very impressive, isn't it?</p> <p>4 A. Yes.</p> <p>5 Q. You don't believe that Ethan Vinson was hired because</p> <p>6 he happened to be the best person for the job?</p> <p>7 A. I believe Ethan Vinson was hired because he was black</p> <p>8 and a qualified person.</p> <p>9 Q. Is there anything wrong with that?</p> <p>10 A. To some extent it could be, it depends what your</p> <p>11 ulterior motives might be.</p> <p>12 Q. How about the motive of being -- having more</p> <p>13 African-Americans in the City's employment, is that a</p> <p>14 proper and good motivation?</p> <p>15 A. Yes, if it's genuine.</p> <p>16 Q. Well, are you saying, as you sit here today, the</p> <p>17 hiring of Ethan Vinson, who's a prominent black</p> <p>18 attorney, was not a proper motivation?</p> <p>19 A. It was a political appointment that had a positive</p> <p>20 consequence, yes.</p> <p>21 Q. But weren't you supposed to bring in African-Americans</p> <p>22 as a positive consequence, yes or no?</p> <p>23 A. The answer to that is yes but --</p> <p>24 Q. Okay.</p> <p>25 A. -- for the purpose of genuine diversity.</p>	<p>1 A. For political purposes, yes.</p> <p>2 Q. Okay. So you're standing by your ground that all of</p> <p>3 these hires were for political purposes?</p> <p>4 A. I never said that, sir.</p> <p>5 Q. What about appointing Brittany Dallas as the human</p> <p>6 resources assistant?</p> <p>7 A. I have no knowledge as to what was involved in that</p> <p>8 appointment.</p> <p>9 Q. He appointed Amanda Mika executive assistant, the</p> <p>10 first Arab-American employee in the mayor's office?</p> <p>11 A. I really have no knowledge of what the motivation was</p> <p>12 of hiring Amanda Mika.</p> <p>13 Q. What about Richard Sabaugh, public service director,</p> <p>14 who's also an Arab-American, do you think that doesn't</p> <p>15 support or undermine your statement that the mayor is</p> <p>16 not committed to diversity?</p> <p>17 A. I believe that's incidentally consequential to the</p> <p>18 political perspective.</p> <p>19 Q. Incidental, you have a department head, one of the</p> <p>20 most important public services, you feel that's</p> <p>21 incidental?</p> <p>22 A. Yes, what I understand is that Mr. Sabaugh ran Mayor</p> <p>23 Fouts' campaign and that that was one of the primary</p> <p>24 reasons for bringing him on board in the capacity he's</p> <p>25 in. I don't think it was --</p>

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<p style="text-align: right;">Page 271</p> <p>1 MR. MARKO: Go ahead.</p> <p>2 A. I don't think it was because of diversity, it was</p> <p>3 because he had other skill sets and just happened to</p> <p>4 turn out to be Arabic.</p> <p>5 (Mr. Mungo left the deposition room at</p> <p>6 5:38 p.m.)</p> <p>7 BY MR. ACHO:</p> <p>8 Q. Who told you what you just said or is that your</p> <p>9 assessment?</p> <p>10 A. That's my assessment.</p> <p>11 Q. Okay. Now, are you aware that Mayor Fouts approved</p> <p>12 the promotion of two African-Americans in human</p> <p>13 resources?</p> <p>14 A. Yes.</p> <p>15 Q. Isn't that a sign of commitment to diversity?</p> <p>16 A. It's a sign of political patronage.</p> <p>17 Q. Okay. He appointed Hazel Rivers to the crime</p> <p>18 commission, what about that?</p> <p>19 A. I have no knowledge as to why that appointment was</p> <p>20 made.</p> <p>21 Q. He appointed Doug Williams as senior housing</p> <p>22 assistant?</p> <p>23 A. Who, himself, had his own issues with race in that</p> <p>24 department and he spoke to the mayor about that.</p> <p>25 Q. You know, you seem to know a lot of things without</p>	<p style="text-align: right;">Page 273</p> <p>1 MR. MARKO: Asked and answered.</p> <p>2 BY MR. ACHO:</p> <p>3 Q. Do you hear what I just said?</p> <p>4 A. Yes.</p> <p>5 Q. Does that now -- you still stand by no commitment to</p> <p>6 diversity, right?</p> <p>7 A. I think what you're confusing, sir, commitment of</p> <p>8 diversity as it relates to singular appointments and</p> <p>9 actual practices and policies, that's what you're not</p> <p>10 understanding, and that's the framework within which</p> <p>11 I'm answering your questions.</p> <p>12 Q. Okay. Also, the mayor sponsored having a large photo</p> <p>13 of Dr. Martin Luther King at the entrance of the Civic</p> <p>14 Center Library, did you know he did that?</p> <p>15 A. Yes, sir.</p> <p>16 Q. It's a good thing, isn't it?</p> <p>17 A. Yes, sir.</p> <p>18 Q. That doesn't sound political to me. Does it sound</p> <p>19 political to you?</p> <p>20 A. Yes, sir.</p> <p>21 Q. Bernice King, do you know who she is?</p> <p>22 A. Yes, sir.</p> <p>23 Q. Are you aware of the letter she sent to the mayor --</p> <p>24 A. Yes.</p> <p>25 Q. -- commending him about his diversity?</p>
<p style="text-align: right;">Page 272</p> <p>1 having personal knowledge. Is this what someone tells</p> <p>2 you?</p> <p>3 MR. MARKO: Objection to form and</p> <p>4 mischaracterizes his testimony.</p> <p>5 BY MR. ACHO:</p> <p>6 Q. That's what someone told you, is that correct?</p> <p>7 (Mr. Mungo entered the deposition room at</p> <p>8 5:38 p.m.)</p> <p>9 A. That's what Mr. Williams told me.</p> <p>10 BY MR. ACHO:</p> <p>11 Q. Yeah, it's not your own knowledge, is it?</p> <p>12 A. Well, the party had shared that with me, yes.</p> <p>13 Q. So you really don't know what hearsay is, do you?</p> <p>14 MR. MARKO: Objection, Counsel.</p> <p>15 BY MR. ACHO:</p> <p>16 Q. Did you know the mayor started the annual Dr. Martin</p> <p>17 Luther King Day ceremony day at Warren City Hall?</p> <p>18 A. Yes, sir.</p> <p>19 Q. Now, did you know it's the only city in Macomb County</p> <p>20 to have such an event, did you know that?</p> <p>21 A. I'm not aware of that. I think the county also does</p> <p>22 something on Martin Luther King Day.</p> <p>23 Q. Did you hear what I said?</p> <p>24 A. Yes.</p> <p>25 Q. It's the only city in the county?</p>	<p style="text-align: right;">Page 274</p> <p>1 A. Yes, sir.</p> <p>2 Q. So here you have Dr. Martin Luther King, Jr.'s</p> <p>3 daughter commending the mayor for his diversity and</p> <p>4 you are saying, no, he really doesn't, is that right?</p> <p>5 A. No, I'm saying the mayor's commitment to diversity was</p> <p>6 not genuine.</p> <p>7 Q. And he changed the image from Fortress Warren from the</p> <p>8 previous administration, didn't he?</p> <p>9 A. I believe that there are enough people out there who</p> <p>10 still believe that Warren is Fortress Warren.</p> <p>11 Q. But you haven't done anything to change it, have you?</p> <p>12 A. Within my limitations, no.</p> <p>13 Q. All right. The mayor has more employees at city hall</p> <p>14 who are African-American than ever before, true?</p> <p>15 A. That would be numerically correct.</p> <p>16 Q. Well, more than numerically correct, it shows</p> <p>17 diversity effort on the part of the mayor, correct?</p> <p>18 MR. MARKO: Objection to foundation.</p> <p>19 Go ahead.</p> <p>20 A. It shows that there are a larger number of people of</p> <p>21 color working in the City of Warren than in previous</p> <p>22 administrations.</p> <p>23 BY MR. ACHO:</p> <p>24 Q. Okay. So Mayor Fouts was responsible for that,</p> <p>25 correct?</p>

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<p style="text-align: right;">Page 275</p> <p>1 A. Yes. 2 Q. Okay. 3 A. Yes. 4 Q. So that shows a commitment to diversity, doesn't it? 5 A. It shows an understanding of how that would be 6 perceived. 7 Q. Perceived to something good, right? 8 A. By some perceived as nothing but tokenism. 9 Q. So in your world, if you hire African-Americans it's 10 tokenism? 11 A. No, sir. 12 Q. Well, either it's a good thing or it's tokenism, which 13 is it? 14 A. It could be both. 15 Q. In all these instances I've given you so far, we're 16 not done, are you saying these were all tokenism? 17 MR. MARKO: Objection, that 18 mischaracterizes his testimony. 19 A. No, sir. 20 BY MR. ACHO: 21 Q. So some of these were commitments to diversity, right? 22 MR. MARKO: Foundation. 23 A. I'm not able to discern that from these appointments. 24 BY MR. ACHO: 25 Q. But you can't discount them either, can you?</p>	<p style="text-align: right;">Page 277</p> <p>1 were recommending you told him to delay, is that 2 correct? 3 A. Based on what the mayor told me was his concern about 4 the backlash that he anticipated. 5 Q. But I'm just trying to understand -- 6 A. Yes. 7 Q. You've only made five recommendations, two you asked 8 to be done and he did them, doesn't that show you a 9 commitment to diversity, which is different than what 10 you told the media? 11 A. It shows an intent to showcase isolated incidences of 12 hiring minorities. 13 Q. Okay. Well, I've already gone through 16 with you and 14 I'm going to go through more. 15 A. Sure. 16 Q. So 16 is not isolated, is it? 17 MR. MARKO: Objection to form. 18 A. Over a 10-year period, yes. 19 BY MR. ACHO: 20 Q. Okay. And isn't it true that in all of the State of 21 the City speeches diversity and inclusiveness has been 22 a highlight in all of Mayor Fouts' speeches or you 23 just don't know, correct? 24 A. I can say all of the speeches, no. 25 Q. But you don't know?</p>
<p style="text-align: right;">Page 276</p> <p>1 A. Obviously not. 2 Q. Pardon me? Oh, obviously not? 3 A. Yeah. 4 Q. So the mayor's efforts you cannot discount, as you sit 5 here today? 6 A. The mayor's motivation I can discount. 7 Q. Well, what's more important, motivation or results, 8 you brought in no one of color to the city? 9 A. That's not true, sir. 10 MR. MARKO: Objection to the form of the 11 question. 12 BY MR. ACHO: 13 Q. Who did you bring in to the City, who did you actually 14 bring in of color? 15 A. I made the recommendation for Ethan, I'm not saying 16 that it was the only recommendation he got from me but 17 I made that initial recommendations for Ethan. I made 18 the initial recommendation for Clarissa Cayton, who is 19 now the director of the communications department and 20 I gave him the three resumes, as he asked me, of three 21 African-American females for the position of human 22 resource director. 23 Q. If I understand your testimony correctly, the two 24 recommendations of department-level positions that you 25 made, the mayor supported you and the three that you</p>	<p style="text-align: right;">Page 278</p> <p>1 A. I'm not privy to all of the speeches. 2 Q. Well, you were if you would have listened to them, 3 right? 4 MR. MARKO: Objection. 5 BY MR. ACHO: 6 Q. If you heard them, right? 7 A. Now, that was uncalled for, Mr. Acho. 8 Q. No, if you would have heard the speeches -- 9 A. That's not what you intended by -- 10 Q. That's exactly all I intended. You're being 11 overly-sensitive. 12 MR. MARKO: That's argumentative. 13 BY MR. ACHO: 14 Q. Let's back up. I asked you, isn't it significant that 15 in all of the State of the City speeches diversity 16 inclusiveness has been a highlight, that is important, 17 isn't it? 18 A. It's important to say. 19 Q. Okay. And then, on top of that, he hired you as the 20 only diversity coordinator in the history of Warren 21 and the only one in southeast Michigan, right? 22 A. That was a ruse. 23 Q. Okay. 24 A. I came to find, to understand, that it was a ruse and 25 that his interest in diversity was not genuine.</p>

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<p style="text-align: right;">Page 279</p> <p>1 Q. So here I've now identified 17 --</p> <p>2 A. Yes.</p> <p>3 Q. -- including department heads, like Mr. Vinson, and</p> <p>4 those were all ruses?</p> <p>5 A. Over a 10-year period, 2 a year, that's a good quota.</p> <p>6 Q. Okay. He appointed George Anthony to be diversity</p> <p>7 coordinator, that's a commitment to diversity, right?</p> <p>8 A. Mr. Anthony has absolutely no credentials in diversity</p> <p>9 or advocacy for diversity. He has law enforcement</p> <p>10 credentials and they're impressive, and I know George</p> <p>11 and I like George and I hope George can do a better</p> <p>12 job, but George has no experience in negotiating</p> <p>13 issues of diversity with units of government.</p> <p>14 Q. But you, you were there 11 months and you really</p> <p>15 didn't accomplish much, did you?</p> <p>16 MR. MARKO: Objection, argumentative.</p> <p>17 A. I accomplished some things, yes.</p> <p>18 BY MR. ACHO:</p> <p>19 Q. Some things?</p> <p>20 A. Yes, sir.</p> <p>21 Q. He also appointed Melody Magee to the housing</p> <p>22 commission.</p> <p>23 A. Yes, sir.</p> <p>24 Q. That's a good thing, isn't it?</p> <p>25 A. I don't know what her credentials are and --</p>	<p style="text-align: right;">Page 281</p> <p>1 would mean taking a look at all of your protocols to</p> <p>2 make sure that, one, that they're placed at their best</p> <p>3 practice and that people are excluded based on</p> <p>4 practices and policies that on its face are not racist</p> <p>5 but have disparate impact.</p> <p>6 Q. Okay. You say that you really -- you don't know if</p> <p>7 you did a good job, do you?</p> <p>8 A. Oh, I did a good job.</p> <p>9 Q. Okay. Please tell me this, since you did a good job,</p> <p>10 how many African-Americans applied for police officer</p> <p>11 positions in Warren in the last four years?</p> <p>12 A. I'm not aware of that, sir.</p> <p>13 Q. How many African-Americans were offered positions as</p> <p>14 police officers?</p> <p>15 A. I'm not aware of that, sir.</p> <p>16 Q. How many African-Americans apply for positions, were</p> <p>17 offered positions, and declined?</p> <p>18 A. I'm not aware of that, sir.</p> <p>19 Q. You don't think that matters?</p> <p>20 A. I think what matters is that you have a police force</p> <p>21 of 204 sworn law enforcement officers and you only</p> <p>22 have one black -- black police officer with the City</p> <p>23 having at least 16 percent African-American and the</p> <p>24 surrounding metropolitan area having a predominance of</p> <p>25 African-American persons, that there is something</p>
<p style="text-align: right;">Page 280</p> <p>1 Q. So what, she's a minority?</p> <p>2 A. That's the problem.</p> <p>3 Q. What is the problem?</p> <p>4 A. That it doesn't matter as long as you have a black</p> <p>5 face positioned somewhere. What you just said</p> <p>6 reveals -- it doesn't matter, it does matter.</p> <p>7 Q. Sir --</p> <p>8 A. It does matter.</p> <p>9 Q. You don't know her credentials?</p> <p>10 A. I do know her credentials.</p> <p>11 Q. What are they?</p> <p>12 A. She was a former buyer -- a diversity buyer for, I</p> <p>13 believe, GM.</p> <p>14 Q. So you don't think she was qualified?</p> <p>15 A. For the housing commission, I don't know that she is</p> <p>16 or isn't.</p> <p>17 Q. So you're not in a position to say?</p> <p>18 A. Correct.</p> <p>19 Q. But having more diversity is a good thing, right?</p> <p>20 A. Just having black people in spaces and faces is not</p> <p>21 enough for diversity.</p> <p>22 Q. Okay. What is enough in your mind?</p> <p>23 A. Genuine diversity would seem to imply that your</p> <p>24 workforce is representative of your City's</p> <p>25 demographics, that's what it would mean to me and that</p>	<p style="text-align: right;">Page 282</p> <p>1 there that seems to be institutional and, to some</p> <p>2 extent, intentional.</p> <p>3 Q. But you're a diversity coordinator and you didn't even</p> <p>4 bother to find out what happened in the last four</p> <p>5 years --</p> <p>6 A. That's not correct.</p> <p>7 Q. -- with regard to the police department?</p> <p>8 A. I requested that information from the police</p> <p>9 department and you need to ask Mark and the mayor to</p> <p>10 give you the memo that I wrote requesting that</p> <p>11 information.</p> <p>12 Q. When did you --</p> <p>13 A. Your clients aren't being upfront with you.</p> <p>14 Q. When did you request it?</p> <p>15 A. I requested that information in about June or so,</p> <p>16 yeah.</p> <p>17 Q. So since --</p> <p>18 A. June, July.</p> <p>19 Q. You've never followed up after that, did you?</p> <p>20 A. I followed up with the mayor.</p> <p>21 Q. You didn't follow up with the civil service</p> <p>22 commission?</p> <p>23 A. That would be inappropriate for me to do so.</p> <p>24 Q. Well, that's what you say.</p> <p>25 A. Yes.</p>

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<p style="text-align: right;">Page 283</p> <p>1 Q. Didn't you tell us it was a national problem and a 2 statewide problem that not enough African-Americans 3 were applying to be police officers? 4 A. Absolutely, yes, sir, but I also chaired that Grand 5 Rapids, Kalamazoo and other cities and Dearborn, in 6 particular, have been in the same situation and I 7 encouraged the mayor to reach out to those 8 municipalities so that he can get an understanding of 9 how diversity is introduced into an environment like 10 Warren, but black people are still being hired all 11 across the state but not in Warren. 12 Q. In Warren, you know, two were offered positions and 13 declined, did you know that? 14 A. No, sir. 15 Q. Wouldn't that make a difference, the number would have 16 spiked by a thousand percent, right? 17 A. No. No. No. 18 Q. Well, yeah, to go from 1 to 3. 19 A. The City of Warren has a reputation that a lot of law 20 enforcement officers have issues with and that also 21 helps to inform people's decisions to accept 22 employment from the City of Warren. 23 MR. ACHO: Could you read the question 24 back? 25 I want you to answer my question, not</p>	<p style="text-align: right;">Page 285</p> <p>1 history, were you aware of that? 2 A. Yes, sir. 3 Q. What do you think of that, isn't that promoting 4 diversity? 5 A. I think it's manipulating diversity, although she is 6 well-qualified. 7 Q. And then Gena Benson, an African-American, to the 8 crime commission? 9 A. I'm not aware of that. 10 (Mr. Mungo entered the deposition room at 11 5:52 p.m.) 12 BY MR. ACHO: 13 Q. Okay. So here I've listed a whole long list of things 14 and what you're telling the court, I don't care about 15 all of these appointments, African-American, women, 16 Arab-Americans, to my mind none of that makes any 17 difference at all about my opinion, correct? 18 MR. MARKO: Objection to the form, 19 mischaracterizes his testimony. 20 A. I never said, don't care. I never used those words 21 and I do understand how initiatives can be manipulated 22 for political purposes. 23 BY MR. ACHO: 24 Q. Well, answer my question. You're telling us under 25 oath, I don't care about all these hires and all these</p>
<p style="text-align: right;">Page 284</p> <p>1 yours, okay? 2 (The following requested portion of the 3 record was read by the reporter at 4 5:51 p.m.: 5 Q. Wouldn't that make a difference, the 6 number would have spiked by a thousand 7 percent, right?) 8 A. You said make a difference, it would not have made 9 that much of a difference. 10 BY MR. ACHO: 11 Q. And were you aware that the mayor appointed Gus 12 Ghanam, a sanitation director, who's Arab-American? 13 (Mr. Mungo left the deposition room at 14 5:51 p.m.) 15 A. Yes. 16 BY MR. ACHO: 17 Q. He appointed Michelle Nard, the first African-American 18 to be appointed to the beautification commission? 19 A. I'm not aware of that at all. 20 Q. He appointed Ben Lazarus, the first Asian-American, 21 and later helped him get elected to the local school 22 board? 23 A. I'm not familiar with that. 24 Q. What about Clarissa Cayton, first female 25 African-American communications director in Warren's</p>	<p style="text-align: right;">Page 286</p> <p>1 initiatives, that doesn't change my opinion, my 2 assessment, is that right? 3 A. I'm sharing with you that my assessment of a number of 4 those were politically motivated and not under or 5 within a genuine interest in diversity. 6 Q. Not all of them, you're not saying all of them were, 7 are you? 8 A. No, sir. 9 Q. Okay. Now, Jere Green, you didn't like him, did you? 10 A. I had no feeling one way or another for Mr. Green. 11 He'd never done anything to me, except for that one 12 comment that he made and I didn't even respond to 13 that. 14 Q. Why didn't you? You should have gone up to him, since 15 you're a man who's not shy and reticent, and say, 16 hey -- 17 A. The man carries a gun. 18 Q. Are you telling us under oath you're afraid for your 19 life? 20 A. The man carries a gun. 21 MR. ACHO: Could you read the question back 22 to the witness? 23 A. I'm not telling you that. The man carries a gun. 24 BY MR. ACHO: 25 Q. So he carries a gun, so does the lieutenant, okay, so</p>

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<p>1 do some people in this room.</p> <p>2 MR. MARKO: Objection, argumentative.</p> <p>3 BY MR. ACHO:</p> <p>4 Q. Is that the reason you didn't go up to him and</p> <p>5 confront him because he carries a gun?</p> <p>6 A. He never -- Lieutenant Bradley has never spoken to me,</p> <p>7 to my knowledge, as being a nigger.</p> <p>8 Q. But you heard it from a third party, correct?</p> <p>9 A. I heard it from someone who I assumed -- who I granted</p> <p>10 credibility.</p> <p>11 Q. Okay. Did you know that that man and Green did not</p> <p>12 get along, did you know that, because if you really</p> <p>13 knew that man, he told me he didn't get along with</p> <p>14 him?</p> <p>15 MR. MARKO: Objection to form. I don't</p> <p>16 understand the question.</p> <p>17 BY MR. ACHO:</p> <p>18 Q. You understand what I'm saying, don't you?</p> <p>19 A. Would you repeat that?</p> <p>20 Q. Sure. Oh, by the way, I have to ask you something,</p> <p>21 you are telling the court that Jere Green carries a</p> <p>22 gun, right, that's what you told us?</p> <p>23 MR. MARKO: Asked and answered.</p> <p>24 BY MR. ACHO:</p> <p>25 Q. This is a foundation. Is that right?</p>	<p>1 because the man carries a gun.</p> <p>2 Q. If he didn't carry a gun would you have gone up to</p> <p>3 him, would you?</p> <p>4 A. I have no way to answer that question. I would not go</p> <p>5 up to a person that carries a gun.</p> <p>6 Q. Let's back up. I said if he didn't have a gun, would</p> <p>7 you have gone up to him?</p> <p>8 MR. MARKO: He answered. Asked and</p> <p>9 answered. He answered that question.</p> <p>10 A. I can't speculate on that.</p> <p>11 BY MR. ACHO:</p> <p>12 Q. Why?</p> <p>13 A. Because the difference is a gun.</p> <p>14 Q. I said if he did not have a gun?</p> <p>15 A. I have no way to know that.</p> <p>16 Q. But you could have asked Nichols, does he carry a gun,</p> <p>17 you could have asked him, right?</p> <p>18 A. As I said, every police chief that I have had contact</p> <p>19 with --</p> <p>20 MR. ACHO: Read the question back to him.</p> <p>21 See, you have to answer my question.</p> <p>22 Listen to my question.</p> <p>23 (The following requested portion of the</p> <p>24 record was read by the reporter at</p> <p>25 5:57 p.m.:</p>
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<p>1 A. Yes.</p> <p>2 Q. Do you know he hasn't carried a gun in 10 years?</p> <p>3 MR. MARKO: Assumes facts not in evidence.</p> <p>4 A. I do not know that.</p> <p>5 BY MR. ACHO:</p> <p>6 Q. Okay. So, basically, you're speaking on something</p> <p>7 like you know what you're talking about but you really</p> <p>8 don't, about Jere Green?</p> <p>9 MR. MARKO: Argumentative, mischaracterizes</p> <p>10 his testimony.</p> <p>11 A. The police chiefs that I have had interactions with</p> <p>12 all carry weapons so I don't think it was out of the</p> <p>13 ordinary that Jere Green would carry a weapon.</p> <p>14 BY MR. ACHO:</p> <p>15 Q. But he doesn't, but you still didn't go up to him?</p> <p>16 A. No, sir.</p> <p>17 Q. You could have gone up to him and say, is this true</p> <p>18 what this man said you said?</p> <p>19 A. That's your opinion, that was not my opinion, no.</p> <p>20 Q. Are you saying something prohibited you after you</p> <p>21 talked to Nichols, right?</p> <p>22 A. Uh-huh. Yes.</p> <p>23 Q. There was nothing that prevented you from going to</p> <p>24 talk to Green and have a face to face with him?</p> <p>25 A. I'll share with you that I did not go confront him</p>	<p>1 Q. But you could have asked Nichols, does</p> <p>2 he carry a gun, you could have asked him,</p> <p>3 right?)</p> <p>4 A. Anything is possible.</p> <p>5 BY MR. ACHO:</p> <p>6 Q. But you didn't?</p> <p>7 A. I did not ask him that question.</p> <p>8 Q. By the way, did you ever keep any notes about anything</p> <p>9 pertaining to the City of Warren or the mayor or Jere</p> <p>10 Green?</p> <p>11 A. They were all left in my office when I departed. I</p> <p>12 did keep notes.</p> <p>13 Q. About what, what is contained in those notes?</p> <p>14 A. Our recounting of conversations that I may have had</p> <p>15 with others, policies that I wanted to explore, things</p> <p>16 that I needed to verify, all those things were left in</p> <p>17 my credenza behind my chair.</p> <p>18 Q. Was there anything derogatory about Mayor Fouts?</p> <p>19 A. I wouldn't have written anything derogatory about him.</p> <p>20 Q. Was there anything derogatory about Jere Green?</p> <p>21 A. I wouldn't have written anything derogatory about Jere</p> <p>22 Green.</p> <p>23 Q. You could have, according to you, according to your</p> <p>24 affidavit, I mean, you wrote something derogatory</p> <p>25 here, didn't you?</p>

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<p style="text-align: right;">Page 291</p> <p>1 A. What are you referring to? 2 Q. Your whole affidavit is derogatory, right? 3 MR. MARKO: Objection, mischaracterization. 4 A. No. 5 BY MR. ACHO: 6 Q. It's not derogatory? 7 A. I would say that some of the behavior is derogatory, 8 yes. 9 Q. Okay. So you told us you kept notes but I didn't keep 10 anything derogatory on Fouts or Green, correct? 11 A. Correct. 12 Q. But you put derogatory comments about Fouts and Green 13 in your affidavit? 14 MR. MARKO: Mischaracterizes his testimony. 15 BY MR. ACHO: 16 Q. Didn't you, yes or no? 17 A. I put comments in there regarding my assessment of the 18 mayor and I need you to show me where I said something 19 about Jere Green. 20 Q. Well, we're going to go -- I'm going to ask you first, 21 foundation, did you, in your affidavit, put anything 22 derogatory about Mayor Fouts? 23 A. May I have a copy of that? 24 Q. No, I'm going to ask you from your own -- I want to 25 see how your recollection is because this affidavit</p>	<p style="text-align: right;">Page 293</p> <p>1 Q. Okay. 2 A. In regards to the mayor, I shared what the mayor said 3 to me. 4 Q. Okay. So when you said this is of my own knowledge, 5 that is not true as to Green, is it? 6 A. May I have a copy of this? 7 MR. MARKO: You're questioning him about 8 it, let him see the affidavit. 9 BY MR. ACHO: 10 Q. Do you want to read it and I'm going ask you a few 11 questions. 12 MR. MARKO: Go ahead and read it. 13 MR. ACHO: So let's take some -- we're 14 going to take a break and this not taking -- this is 15 not taking off our time. You take a look at it. 16 MR. MARKO: What do you mean, not taking 17 off your time? 18 THE WITNESS: You can ask me as I read it. 19 MR. MARKO: It is off your time too. 20 BY MR. ACHO: 21 Q. Then we'll keep going. Okay. The comments about 22 Green underlined there is not your personal knowledge, 23 it's what you say the mayor said to you, is that 24 correct? 25 MR. MARKO: There's multiple things</p>
<p style="text-align: right;">Page 292</p> <p>1 was only done about a month ago, January 17th, so I 2 want to test your recollection. Did you write 3 anything derogatory about the mayor? 4 MR. MARKO: Objection to form and the use 5 of the term derogatory. 6 A. I shared my assessment of the mayor's lack of genuine 7 commitment to diversity. 8 BY MR. ACHO: 9 Q. Do you consider that complimentary or derogatory? 10 A. I consider it factual. 11 Q. Is it complimentary or derogatory? 12 MR. MARKO: Objection to form. 13 MR. MUNGO: Objection, asked and answered. 14 A. I consider it derogatory. 15 (Mr. Vinson entered the deposition room at 16 5:59 p.m.) 17 BY MR. ACHO: 18 Q. Same thing about Green, you said something derogatory 19 about him? 20 A. I shared what the mayor shared with me about Jere 21 Green. 22 Q. So your affidavit contains something that was not your 23 personal knowledge but what someone said to you, is 24 that correct? 25 A. Yes.</p>	<p style="text-align: right;">Page 294</p> <p>1 underlined so make sure we're on the same page that 2 we're talking about. 3 MR. ACHO: It's the first page. 4 MR. MARKO: The same page, that might have 5 been unartful, that we're talking about the same thing 6 on the page. 7 A. Okay. 8 BY MR. ACHO: 9 Q. Do you see them? 10 A. I see where -- 11 Q. That comment about Jere Green? 12 A. In my opinion -- 13 Q. But it's not your opinion? 14 A. It is. 15 Q. You told us that's what the mayor told you? 16 A. True. 17 MR. MUNGO: Objection, argumentative, 18 Counsel. 19 BY MR. ACHO: 20 Q. That's my point, it's not your personal knowledge, 21 it's what a third party said to you about Green, 22 correct? 23 A. In concert with the fact that over 10 years no other 24 African-American person had been hired as a police 25 officer in the City of Warren, in concert with that.</p>

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<p style="text-align: right;">Page 295</p> <p>1 Q. So we're clear, this comment about Green --</p> <p>2 A. I need that back, sir.</p> <p>3 Q. This comment about Green -- the comment about Green --</p> <p>4 A. Yes.</p> <p>5 Q. -- was based upon what a third party told you and</p> <p>6 about the number of African-American police officers,</p> <p>7 is that correct?</p> <p>8 A. Within the last 10 years.</p> <p>9 Q. It's not your own personal knowledge?</p> <p>10 A. It's my personal opinion.</p> <p>11 Q. Okay. Opinion, not knowledge?</p> <p>12 A. It's my knowledge based on the fact that there were no</p> <p>13 African-Americans hired during his tenure as</p> <p>14 commissioner.</p> <p>15 Q. But you didn't even know, as a diversity coordinator,</p> <p>16 that two African-American officers were offered</p> <p>17 positions but they declined?</p> <p>18 A. So that's irrelevant.</p> <p>19 Q. Okay. All right. Okay. Now, you also say the City</p> <p>20 of Warren has a history of taking delayed disciplinary</p> <p>21 action?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. How many disciplinary actions has the City of</p> <p>24 Warren had in the last 10 years?</p> <p>25 A. No idea, sir.</p>	<p style="text-align: right;">Page 297</p> <p>1 work.</p> <p>2 Q. But you stopped working. How did you come to stop</p> <p>3 working?</p> <p>4 A. The mayor called me in his office and told me that he</p> <p>5 was accepting the resignation that we had voided and</p> <p>6 that it had to be that way.</p> <p>7 Q. Well, why didn't you tell the mayor, wait a minute,</p> <p>8 I'd like to stay? You could have said, mayor, I'd</p> <p>9 like to stay instead but you just walked out because</p> <p>10 we have witnesses to that?</p> <p>11 MR. MARKO: Objection, assumes facts not in</p> <p>12 evidence.</p> <p>13 A. I did tell the mayor that I would continue to work for</p> <p>14 him as long as his commitment to diversity was genuine</p> <p>15 and that was on November 9th or 10th, thereafter, I</p> <p>16 put several recommendations in writing and he rejected</p> <p>17 all of them, and then the mayor called me into his</p> <p>18 office after I refused to purchase tickets to attend</p> <p>19 his fundraiser and told me that he was accepting my</p> <p>20 resignation, it was effective immediately and that's</p> <p>21 the way it was going to be.</p> <p>22 BY MR. ACHO:</p> <p>23 Q. Let me understand something, you never withdrew your</p> <p>24 letter of resignation?</p> <p>25 MR. MARKO: Objection.</p>
<p style="text-align: right;">Page 296</p> <p>1 Q. Okay. So you don't know whether the City of Warren</p> <p>2 has a history of taking delayed disciplinary actions</p> <p>3 because you don't know the history, do you?</p> <p>4 A. I do know three instances makes a history.</p> <p>5 Q. So you're saying three instances make a history so 10</p> <p>6 years wouldn't be a better history than 3 incidences?</p> <p>7 A. No, sir, the three incidences where race was a factor</p> <p>8 is what makes this a history.</p> <p>9 Q. I see. Let me understand something, you resigned from</p> <p>10 the City, didn't you?</p> <p>11 A. Initially, yes.</p> <p>12 Q. Well, when you say, initially, I'm going to be real</p> <p>13 specific, did you withdraw your letter of resignation,</p> <p>14 yes or no?</p> <p>15 MR. MARKO: Objection to form.</p> <p>16 Go ahead and answer however you need to.</p> <p>17 A. The mayor rejected my letter of resignation.</p> <p>18 MR. ACHO: Okay. Read the question back to</p> <p>19 the witness.</p> <p>20 Listen to the question because --</p> <p>21 A. There was no need for me to --</p> <p>22 BY MR. ACHO:</p> <p>23 Q. Pardon?</p> <p>24 A. There was no need for me to withdraw it. The mayor</p> <p>25 and I came to an agreement that I would continue to</p>	<p style="text-align: right;">Page 298</p> <p>1 BY MR. ACHO:</p> <p>2 Q. I didn't see a withdraw of the letter. Did you submit</p> <p>3 a withdraw, yes or no?</p> <p>4 MR. MARKO: Objection, asked and answered.</p> <p>5 BY MR. ACHO:</p> <p>6 Q. Either you did or you didn't?</p> <p>7 A. There was no need for me to put --</p> <p>8 MR. MARKO: Go ahead. Go ahead. Finish.</p> <p>9 A. There was no need for me to put a -- in writing</p> <p>10 voiding my resignation letter because the mayor asked</p> <p>11 me to stay on and I agreed to so, no, nothing was put</p> <p>12 in writing, but the mayor and I discussed it and I</p> <p>13 continued to work for nearly another month.</p> <p>14 BY MR. ACHO:</p> <p>15 Q. But you still wanted more money?</p> <p>16 A. No, sir.</p> <p>17 Q. Oh, so we have this under oath now --</p> <p>18 A. Yes, sir.</p> <p>19 Q. -- that you're testifying under oath, I would have</p> <p>20 continued working for the City of Warren for my same</p> <p>21 rate of pay, yes or no?</p> <p>22 A. I did continue to work.</p> <p>23 Q. No, you did for a month, I'm talking after, after?</p> <p>24 A. After what?</p> <p>25 Q. After a month?</p>

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<p style="text-align: right;">Page 299</p> <p>1 A. After a month? I think you have the timeline 2 confused, sir. 3 Q. We'll do it real slow. Help me out. 4 A. Okay. 5 Q. You issued a letter of resignation, that's what you 6 called it, resignation consideration? 7 A. Consideration. 8 Q. Okay. Now, you then worked for another month, you 9 said? 10 A. No, sir, that's where you have it confused. 11 Q. When did you stop working? 12 A. December 8th. 13 Q. Okay. Let's do it this way -- 14 A. Okay. 15 Q. -- would you have continued working after December 8th 16 for the tasks you were given by the mayor at the same 17 rate of pay, yes or no? 18 A. Yes. 19 Q. Okay. Did you ever tell Mr. Vinson, who was in the 20 room with you with the mayor, that you would be 21 agreeable to continue to stay for the same rate of 22 pay? 23 A. I spoke with that -- about that with the mayor. Mr. 24 Vinson was not present when the mayor and I talked and 25 during that conversation he said to me that I really</p>	<p style="text-align: right;">Page 301</p> <p>1 A. I don't consider that prestigious. 2 Q. Added responsibilities and human resources? 3 A. I don't see that as being prestigious. 4 Q. How do you know the mayor didn't see it as 5 prestigious? 6 A. That's not the point. 7 Q. But wait a minute, you work for the mayor? 8 A. True. 9 Q. Isn't the mayor's perception of your duties more 10 important than your perception? 11 A. To a certain extent. 12 Q. What do you mean, to a certain extent? 13 A. To an certain extent. 14 Q. Wait. Hold on. 15 MR. MARKO: Go ahead. 16 A. You asked me the question. 17 BY MR. ACHO: 18 Q. Wait. Wait. You also made a comment, you didn't hire 19 me, I agreed to work for you -- 20 A. No, sir. 21 Q. -- do you remember that? 22 A. No, sir. 23 Q. You didn't say that? 24 A. Go back to my resignation letter. 25 Q. Did you say that? Did you say that to the mayor?</p>
<p style="text-align: right;">Page 300</p> <p>1 want you to stay and I said, okay, sir, I will stay. 2 The issue of the money was tied to the 3 position of liaison and once the mayor reassigned that 4 activity to someone else there was no issue of or a 5 need for an increase in pay, it was -- the pay 6 increase was only attached to if the mayor insisted 7 that I take on the position of the liaison coordinator 8 in addition to my being the diversity coordinator, the 9 EEOC officer, the Title 6 officer, the LEP coordinator 10 and the ADA coordinator, so that's what you have to 11 understand, that the request for the increase was 12 based on if he were to assign that to me as a primary 13 responsibility, that in itself is a full-time job. 14 Most municipalities are engaging in RFPs 15 and hiring firms to help them prepare for the 2020 16 census and so in addition -- 17 Q. You know what, you're not answering my question. 18 A. I am. 19 Q. No. Why did Phil's eventual retirement change 20 everything, why? 21 A. Well, there were duties that were within his 22 wheelhouse that were assigned to me. 23 Q. Isn't that a good thing because then you're not just a 24 number, you're a person given added prestige and 25 responsibility?</p>	<p style="text-align: right;">Page 302</p> <p>1 A. I said I also -- words are important. This is what I 2 told the mayor, words are very important. I -- it 3 wasn't an either/or. I said to him, you chose to 4 offer the employment and I chose to accept it, that's 5 the only context. 6 Q. But isn't that true for everybody, isn't that true for 7 every single person? 8 A. So why is it a big deal? 9 Q. Because of your attitude. 10 A. My attitude? 11 Q. Yeah. 12 MR. MARKO: Objection, this is 13 argumentative. 14 BY MR. ACHO: 15 Q. You didn't pick me, I chose you. 16 MR. MARKO: Objection, that 17 mischaracterizes the testimony. 18 BY MR. ACHO: 19 Q. Words are important? 20 A. Yes, sir. 21 Q. You gave an ultimatum to your boss, I will reject the 22 latter option -- 23 A. True. 24 Q. -- or else -- or else, with an effective date of 25 November 10th, you gave your boss an ultimatum, more</p>

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<p style="text-align: right;">Page 303</p> <p>1 money or else?</p> <p>2 A. That not correct, sir.</p> <p>3 Q. More money and take away some of these</p> <p>4 responsibilities?</p> <p>5 A. That's not correct, sir.</p> <p>6 Q. You --</p> <p>7 MR. MUNGO: Let the record reflect that --</p> <p>8 objection, let the record reflect that counsel is</p> <p>9 using a very demeaning and an agitated -- agitating</p> <p>10 approach in his tone and his words to the deponent.</p> <p>11 MR. ACHO: Okay. I will tell you</p> <p>12 something, sir, I may file a bar grievance against you</p> <p>13 for your mischaracterizations. Okay. I may not do it</p> <p>14 but --</p> <p>15 MR. MUNGO: You have a freedom to do that.</p> <p>16 MR. ACHO: I know I do but I am getting</p> <p>17 very tired because I am being respectful to this</p> <p>18 gentleman. He hasn't told me that he can't answer the</p> <p>19 questions.</p> <p>20 BY MR. ACHO:</p> <p>21 Q. Are there any questions that you can't answer?</p> <p>22 MR. MARKO: Objection.</p> <p>23 MR. MUNGO: Ask him about your tone.</p> <p>24 A. Some of the questions you've asked me I could not</p> <p>25 answer but I can answer this last question.</p>	<p style="text-align: right;">Page 305</p> <p>1 MR. ACHO: I have not.</p> <p>2 MR. MUNGO: -- and raising your voice at</p> <p>3 the deponent, how dare you talk about being</p> <p>4 condescending and inappropriate and disrespectful,</p> <p>5 sir?</p> <p>6 BY MR. ACHO:</p> <p>7 Q. I will ask you this, are you aware of any other</p> <p>8 employee in the City of Warren who gave their boss an</p> <p>9 ultimatum like you did?</p> <p>10 MR. MARKO: Foundation.</p> <p>11 BY MR. ACHO:</p> <p>12 Q. Are you aware?</p> <p>13 A. I'm not aware of anyone else.</p> <p>14 Q. Okay. In your 25 years or more of employment, are you</p> <p>15 aware of any employee that gave an ultimatum to their</p> <p>16 boss like you did?</p> <p>17 A. Yes.</p> <p>18 Q. Give me the names?</p> <p>19 A. The current acting director of the FBI gave an</p> <p>20 ultimatum to his boss.</p> <p>21 Q. Do you know him?</p> <p>22 A. I don't know him but you asked me for an instance.</p> <p>23 Q. No. No, people you know, not what you read in the</p> <p>24 paper. I'm talking about your personal knowledge of</p> <p>25 any employee that you ever worked with that ever gave</p>
<p style="text-align: right;">Page 304</p> <p>1 BY MR. ACHO:</p> <p>2 Q. Let me tell you this, if you find any question that I</p> <p>3 ask where my tone or demeanor affects your ability to</p> <p>4 answer, would you be kind enough to tell me?</p> <p>5 A. I will now going forward.</p> <p>6 MR. MUNGO: Has his tone and demeanor been</p> <p>7 agitating and condescending to you?</p> <p>8 THE WITNESS: Agitating, yes.</p> <p>9 MR. MUNGO: And condescending?</p> <p>10 THE WITNESS: Some has been condescending,</p> <p>11 yes.</p> <p>12 BY MR. ACHO:</p> <p>13 Q. How come you didn't say anything?</p> <p>14 A. I want to get through this.</p> <p>15 Q. Until your lawyer throws those words --</p> <p>16 MR. MARKO: We've been saying it the whole</p> <p>17 time, the objections.</p> <p>18 MR. MUNGO: And like you've threatened to</p> <p>19 file a bar grievance against me for pointing it out,</p> <p>20 you've intimidated this witness all day long, sir.</p> <p>21 MR. ACHO: You have pointed your finger at</p> <p>22 my face 10, 12 times and I didn't say a word. Can I</p> <p>23 just deal --</p> <p>24 MR. MUNGO: And you've been pointing your</p> <p>25 finger at this -- at the deponent --</p>	<p style="text-align: right;">Page 306</p> <p>1 their boss an ultimatum like you gave to Mayor Fouts?</p> <p>2 MR. MARKO: Objection, relevance.</p> <p>3 A. I'm not privy to everyone's interactions with their</p> <p>4 employer.</p> <p>5 BY MR. ACHO:</p> <p>6 Q. Okay. Just wanted to be sure. Now, so I'm clear, you</p> <p>7 and I didn't make complaints to anyone at the federal</p> <p>8 level, state level, even local level, you also had no</p> <p>9 notes that were disparaging of the mayor or Jere Green</p> <p>10 or anyone, of the City of Warren in your notes that</p> <p>11 you kept while you were working, correct?</p> <p>12 A. I will answer the two questions that you asked me.</p> <p>13 One, I never made any formal complaints to any</p> <p>14 regulatory body or any municipal body, and then</p> <p>15 secondly, I did not put in writing complaints</p> <p>16 regarding the mayor or Jere Green or any other City of</p> <p>17 Warren employee.</p> <p>18 Q. In fact, I came across a wonderful letter that you</p> <p>19 wrote. Do you remember writing a wonderful letter</p> <p>20 praising the police department, do you remember that?</p> <p>21 MR. MARKO: Objection to the</p> <p>22 characterization as wonderful.</p> <p>23 BY MR. ACHO:</p> <p>24 Q. Well, no, I'm going to show it to you. Do you</p> <p>25 remember writing this letter shortly before you left</p>

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<p style="text-align: right;">Page 307</p> <p>1 working for the City?</p> <p>2 A. Yes. Yes.</p> <p>3 Q. This was very -- it was to the police commissioner,</p> <p>4 William Dwyer, correct?</p> <p>5 A. Correct.</p> <p>6 Q. And it was praising, Exhibit 1, it was praising the</p> <p>7 Warren Police Department, correct?</p> <p>8 A. It was praising the officers whom I observed during</p> <p>9 the situation described in my memo and they were well</p> <p>10 deserving.</p> <p>11 Q. Good. And so really, other than your praiseworthy</p> <p>12 document, do you follow me, there's nothing other than</p> <p>13 praise about the police department from you in</p> <p>14 writing?</p> <p>15 MR. MARKO: Are you talking about this</p> <p>16 or --</p> <p>17 A. In general or --</p> <p>18 MR. MARKO: I don't understand.</p> <p>19 BY MR. ACHO:</p> <p>20 Q. The only document I could come up with that you</p> <p>21 authored offering an opinion on the police department</p> <p>22 was complimentary and nothing derogatory, right?</p> <p>23 A. That's correct.</p> <p>24 Q. Okay. That's throughout your 11 months at the City of</p> <p>25 Warren, correct?</p>	<p style="text-align: right;">Page 309</p> <p>1 Justice, in the last 15 years have investigated the</p> <p>2 City of Warren, have they?</p> <p>3 A. Not to my knowledge.</p> <p>4 MR. MARKO: Foundation.</p> <p>5 BY MR. ACHO:</p> <p>6 Q. You don't have any knowledge that any federal or state</p> <p>7 agency has found the City of Warren was not in</p> <p>8 compliance with the law, correct, as far as you know?</p> <p>9 A. Yes. Correct.</p> <p>10 Q. But what happened with that Department of Justice</p> <p>11 matter that you were referring to, can you talk to us</p> <p>12 about that, you said there's something going on at the</p> <p>13 Department of Justice surrounding the City of Warren?</p> <p>14 A. There is an investigation ongoing, being conducted by</p> <p>15 the Department of Justice into whether or not there</p> <p>16 were violations of the Americans with Disabilities Act</p> <p>17 as it relates to the City's accommodations for deaf</p> <p>18 persons.</p> <p>19 Q. Okay. So that doesn't seem -- I could be wrong, it</p> <p>20 doesn't seem like it's something that's very common,</p> <p>21 is it?</p> <p>22 A. I would think not.</p> <p>23 Q. Were you involved in this investigation?</p> <p>24 A. To it -- yes, excuse me, the City's internal</p> <p>25 investigation, yes.</p>
<p style="text-align: right;">Page 308</p> <p>1 A. This is the only instance where I observed that I</p> <p>2 comment.</p> <p>3 MR. ACHO: We're going to take a break.</p> <p>4 (Recess taken at 6:16 p.m.)</p> <p>5 (Back on the record at 6:43 p.m.)</p> <p>6 MARKED FOR IDENTIFICATION:</p> <p>7 DEPOSITION EXHIBIT 1</p> <p>8 6:43 p.m.</p> <p>9 BY MR. ACHO:</p> <p>10 Q. We're winding down now so I want to ask you a few</p> <p>11 things. Did you ever do a written analysis of the</p> <p>12 hiring process of the City of Warren, anything in</p> <p>13 writing?</p> <p>14 A. I did it but I was not able to get it to the mayor,</p> <p>15 it's on the City's server, it was a comparison of</p> <p>16 hiring practices as reflected in what's called an</p> <p>17 EEO-4 form and I went through the EEO-4 forms from</p> <p>18 1999 and I got all the way to 2015 and that was the</p> <p>19 day that the mayor -- December 8th, that the mayor</p> <p>20 called me upstairs.</p> <p>21 Q. Let me ask you this, this comes from the EEO, the</p> <p>22 reports, I mean, they have them?</p> <p>23 A. Yes.</p> <p>24 Q. Neither the Equal Employment Opportunity Commission</p> <p>25 nor the Department of Labor, nor the Department of</p>	<p style="text-align: right;">Page 310</p> <p>1 Q. What did you do?</p> <p>2 A. I was made aware that several people were coming to</p> <p>3 the police department to -- deaf people were coming</p> <p>4 into the police department to fill out witness</p> <p>5 statement forms, so it was my responsibility to</p> <p>6 identify and secure a -- an interpreter who could</p> <p>7 assist them -- who knew sign language, to assist them</p> <p>8 in completing that task of filling out the witness</p> <p>9 statement forms.</p> <p>10 Q. Okay.</p> <p>11 A. I got a call from one of the persons involved saying</p> <p>12 that not everyone was being allowed to fill out the</p> <p>13 witness statement forms, and based on that</p> <p>14 representation, I asked them to come over to my office</p> <p>15 where I made two more copies, they were only given one</p> <p>16 statement form so I made two copies of the form and</p> <p>17 with the interpreter present, had those forms</p> <p>18 completed. I held onto those and then Mark and I went</p> <p>19 over the next morning and gave them to the police</p> <p>20 commissioner, who apologized for the experience.</p> <p>21 Q. Okay. Which commissioner was that?</p> <p>22 A. Jere Green.</p> <p>23 Q. And he apologized?</p> <p>24 A. Yeah.</p> <p>25 Q. Let me understand something, I'm a little bit puzzled.</p>

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<p style="text-align: right;">Page 311</p> <p>1 I can understand assistance if someone were blind but 2 if someone can't hear, I mean, you're talking about a 3 written form? 4 A. Yes, that's why the interpreter was there. 5 Q. I'm at a loss. If it's a written form, why would they 6 need an interpreter? 7 A. The interpreter would convey the questions, I guess, 8 to them, they would communicate amongst themselves, 9 there were three people involved and I guess, to some 10 extent, the interpreter would have to receive the 11 information from the police department and convey that 12 information, instructions or whatever else to the 13 person filling out the forms, telling them how to fill 14 out the forms, et cetera. 15 Q. Well, except -- I guess I've always been concerned 16 with an interpreter that could change something, okay, 17 isn't that something that could be a concern? 18 A. That's exactly right, that's why this interpreter was 19 certified by the State of Michigan as an interpreter, 20 not someone who might just arbitrarily have known sign 21 language, et cetera, this person is certified and 22 recognized by the State to serve as an interpreter for 23 deaf, blind and hard of hearing people. 24 Q. Now, is this the issue you had with Lieutenant 25 Bradley?</p>	<p style="text-align: right;">Page 313</p> <p>1 Q. Okay. 2 A. -- in order to do that and Sergeant Bradley was the 3 person who, according to them, denied them access to 4 the forms. 5 Q. According to what I've gathered -- and I understand 6 what you're saying, Lieutenant Bradley is saying the 7 problem wasn't the information or that, but the timing 8 that things -- maybe it's because the mayor told you, 9 send them over there, that they were being scheduled 10 without a clearance as to time, didn't Sergeant 11 Bradley, Lieutenant Bradley mention that? 12 A. No, that part was not raised. 13 Q. He didn't tell you it was a matter of people coming at 14 5:30 or were scheduled at 5:30 but he wasn't there at 15 5:30? 16 A. I wasn't aware that he, and only he, would be able to 17 dispense a witness statement form. 18 Q. Let me ask you this, after you presented to Jere 19 Green -- you talked to him, right, you went there? 20 A. Regarding what? 21 Q. This situation? 22 A. Yes, both Mark and I talked to him at the same time. 23 Q. Was he polite to you and respectful? 24 A. Yes, he was actually apologetic. 25 Q. So why wasn't that just the end of it right there?</p>
<p style="text-align: right;">Page 312</p> <p>1 A. Then Sergeant, yes. 2 Q. Why is this being investigated, I mean -- I mean, is 3 this investigation since you left the City? 4 A. No. 5 Q. Which was why -- 6 A. The investigation was initiated while I was there. It 7 was not initiated by me, it was initiated by one of 8 the deaf persons and in their report that the City 9 developed, it erroneously listed me as a complainant, 10 it had my name in there -- 11 Q. Oh, but you -- 12 A. -- as a complainant. 13 Q. Okay. I understand. Wasn't Sergeant, now Lieutenant 14 Bradley, an honest man with you? 15 MR. MARKO: Objection to form, timeline. 16 A. We did not have the kind of interaction where I could 17 assess his honesty or whatever. I know that he did 18 have a problem with the people coming back over. The 19 mayor had instructed me to share with the police 20 commissioner that they should just go ahead and let 21 the people make their statements and not debate the 22 merits of what would be on the statement but they 23 called me and told me that they were not -- they were 24 not given the witness statement forms that they 25 needed --</p>	<p style="text-align: right;">Page 314</p> <p>1 A. The Department of Justice had already -- 2 Q. Opened the file? 3 A. -- opened the file apparently and I couldn't bring 4 that to any conclusion. 5 Q. Okay. But you're not supporting the Department of 6 Justice, you're just reporting what factually 7 happened, that's all? 8 A. Yes. 9 Q. Okay. Now, but in terms of your interaction with 10 Lieutenant Bradley -- 11 A. Yes. 12 Q. -- he's never been rude or discriminatory towards you, 13 that you're aware of? 14 A. I think we both were rude when we were talking to each 15 other and I think we calmed down. I believe this is 16 correct, let's calm down, let's end this conversation, 17 we ended the conversation and I have seen him when we 18 were having discussions about bringing NOBLE in and he 19 was courteous and I was courteous to him. 20 Q. So it was a mutual respect then? 21 A. Yeah. 22 Q. You have no problem with Bradley? 23 A. I have no problem with anyone in the City. 24 Q. Let's talk about Mark Simlar. Can you tell me what is 25 your opinion of him, your assessment of him?</p>

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<p style="text-align: right;">Page 315</p> <p>1 A. I think based on my exposure to Mark that he's an 2 honorable man. 3 Q. Do you believe that he supports diversity? 4 A. I do believe Mark does, yes. 5 Q. And he is right now the acting head of human resources 6 for the City of Warren? 7 A. That's my understanding. 8 Q. Okay. And the thing that I'm trying to determine, you 9 were making some assessments, I think you called them, 10 about that whole long list of people that the mayor 11 had promoted or hired and all those things, you said 12 some of those in HR were political patronage or 13 something like that, right? 14 A. No, sir. 15 Q. You don't -- so you don't believe any of the people 16 that were hired or promoted that were minorities got 17 those positions because of political contributions, 18 you're not aware of that? 19 A. No, your phraseology, you're talking about 20 contributions. No. No. 21 Q. You have never financially supported the mayor, 22 correct? 23 A. That's correct. 24 Q. And the mayor hired you in this unique position with 25 no political contributions?</p>	<p style="text-align: right;">Page 317</p> <p>1 yes. 2 Q. Now, in that letter of resignation and dealing with 3 the request for additional pay, in part, it was due to 4 the responsibilities of the census, correct, wasn't 5 that part of it? 6 A. Yes, the additional responsibilities of the census 7 with no cessation of my other duties. 8 Q. But the census is only temporary, isn't it, it's a 9 temporary assignment, it's not an ongoing -- 10 A. It would have been a two-and-a-half-year assignment. 11 Q. But the request for more money would have been 12 permanent, not for two and a half years, correct? 13 A. It would only have been consistent with the duration 14 of performing those additional duties. 15 Q. Now, could you have taken on those -- well, let me ask 16 you, how many hours a week did you work? 17 A. 37 and a half. 18 Q. But you could work more hours, couldn't you, like 19 other people who were in a higher-level position, 20 couldn't you have worked, say, 40 hours a week to do 21 some of this work? 22 A. No, sir, this type of work, being the liaison for the 23 City, involved setting up at least 18 different 24 committees and these would be standing committees that 25 you would have to identify the participants of each</p>
<p style="text-align: right;">Page 316</p> <p>1 A. That's correct. 2 Q. And you stayed in your position without any political 3 contributions, did you? 4 A. Up to a point -- 5 Q. Okay. 6 A. -- where I refused to accept fundraising tickets. 7 In two instances I refused to take 8 fundraising tickets. One was when Shawn Clark 9 approached me with fundraising tickets to the 10 president of city counsel's fundraiser and I shared 11 with him that I don't do that and I never have done 12 that, and I didn't do that because I don't want to 13 compromise my integrity. 14 The second instance had to do with the 15 mayor's fundraiser. I did not attend it. I did not 16 sell any tickets to it or accept any tickets and I was 17 called into the office and chastised about that. 18 Q. Now, let me ask you this, do you remember you were -- 19 I think, in your letter of resignation -- 20 A. Yeah. 21 Q. -- were -- you can use the word either criticized or 22 complain, about the added responsibilities like the 23 census. 24 Do you remember that? 25 A. I did share my concerns about that in this letter,</p>	<p style="text-align: right;">Page 318</p> <p>1 committee and then work with them so that they would 2 work with parties or these residents that they 3 represented in order -- that they would respond to 4 enumerators, who would come out and actually conduct 5 the census, it's quite a bit different, it's not a 6 part-time position based on the responsibilities. 7 The Census Bureau came to our office and 8 they shared with us what they wanted the liaison for 9 the City of Warren to do. There's a packet that the 10 mayor has that you should probably get. In that 11 packet it lays out the numerous committees that this 12 liaison would have to create and then work or manage 13 with the end result being a successful census for the 14 City of Warren so it's not something that can be done 15 on a two-hour, three-hour, four-hour basis. 16 Q. I wasn't suggesting that. What I'm saying is, 17 couldn't you have worked some more hours, done as much 18 as you could, and then if certain things fall back, 19 they fall back, but you tried to do whatever you 20 could? 21 A. I'm more conscientious than that and I did understand 22 fully what the job would entail and what was riding on 23 it. To try to perform those functions without a 24 properly resourced group would be doomed to failure 25 and I shared that with the mayor and it does say in</p>

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<p>1 here, staffing and resources, and that's critically</p> <p>2 important to doing anything well.</p> <p>3 Q. Weren't you given some additional staff and resource,</p> <p>4 weren't you given a person?</p> <p>5 A. That person worked only on disability-related issues</p> <p>6 and nothing else.</p> <p>7 Q. But didn't that help you in your performance of your</p> <p>8 job because that was part of what you do?</p> <p>9 A. Yes, sir, it did, as it relates to disabilities only.</p> <p>10 Q. So the mayor did get you some help?</p> <p>11 A. Yes, diverted me away from the -- from diversity to</p> <p>12 disabilities and, in that aspect, gave me someone</p> <p>13 else. The contractor who was working with us on this</p> <p>14 disability project had exhausted her hours so she was</p> <p>15 no longer available and rather than pay a person \$75</p> <p>16 an hour to continue, they brought someone in at \$9 an</p> <p>17 hour to provide 20 hours of work, I think it was 20</p> <p>18 hours of clerical support for the disability</p> <p>19 initiative.</p> <p>20 Q. Also, did you see this letter from Martin Luther King,</p> <p>21 Jr.'s daughter?</p> <p>22 A. I have been shown this, yes.</p> <p>23 Q. Could you -- I'd like you to read it out loud if you</p> <p>24 would, we're almost done.</p> <p>25 Counsel, we're at the end now.</p>	<p>1 will continue to lead your municipality with this</p> <p>2 motto as one of your guiding principals. Your</p> <p>3 leadership certainly sets an example that politicians</p> <p>4 and other persons of influence should seek to emulate</p> <p>5 in a discharge of their duties.</p> <p>6 Again, thank you for all that you have done</p> <p>7 in Warren to honor my father.</p> <p>8 With warmest personal regards, Bernice</p> <p>9 King.</p> <p>10 Q. Thank you.</p> <p>11 I'd like to move that in admission as the</p> <p>12 second exhibit.</p> <p>13 You didn't know that I met her brother or</p> <p>14 her mother, did you --</p> <p>15 A. No, sir.</p> <p>16 Q. -- in that first building that was ever named after</p> <p>17 him by my client?</p> <p>18 A. I met her brother.</p> <p>19 Q. You did?</p> <p>20 A. Yes.</p> <p>21 Q. The III?</p> <p>22 A. No.</p> <p>23 Q. The other brother?</p> <p>24 A. Dr. Martin Luther King.</p> <p>25 Q. Oh, you met him?</p>
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<p>1 MR. MARKO: Don't you think the letter</p> <p>2 speaks for itself?</p> <p>3 MR. ACHO: No, I would like him to read it</p> <p>4 to see if that would change his opinion that he gave</p> <p>5 in his affidavit.</p> <p>6 BY MR. ACHO:</p> <p>7 Q. Can you read it out loud, nice and clear?</p> <p>8 A. Dear Mayor Fouts, I am pleased to offer words of</p> <p>9 praise for you and the work you have championed in</p> <p>10 Warren, Michigan in your capacity as chief executive</p> <p>11 of that city. Personally I know that it takes a</p> <p>12 leader with unwavering courage to embrace noble</p> <p>13 initiatives that are controversial in the minds of</p> <p>14 those who do not share your same convictions.</p> <p>15 I am sure that your decision to observe</p> <p>16 Martin Luther King, Jr.'s birthday for the first time</p> <p>17 in Warren was met with considerable angst. However,</p> <p>18 you remained undeterred in your commitment in</p> <p>19 celebrating my father's legacy as a tribute to him and</p> <p>20 the role he played in fighting and ultimately</p> <p>21 sacrificing his life for the cause of freedom, justice</p> <p>22 and equality.</p> <p>23 Our theme for this year's King holiday</p> <p>24 observance is remember, celebrate, act, King's legacy</p> <p>25 of courage for our world. I have no doubt that you</p>	<p>1 A. Yes, and I am a graduate of his training.</p> <p>2 Q. I saw that, yes.</p> <p>3 A. Yes.</p> <p>4 Q. I saw that. You are a man who believes in being</p> <p>5 completely honest, correct?</p> <p>6 A. Yes, sir, as honest as I can be.</p> <p>7 Q. That's why you have told us that you had believed, and</p> <p>8 maintain today, that DeSheila Howlett has no case</p> <p>9 against the City of Warren, is that correct, and</p> <p>10 that's my last question?</p> <p>11 MR. MARKO: Objection, mischaracterizes the</p> <p>12 testimony and it calls for a legal conclusion.</p> <p>13 BY MR. ACHO:</p> <p>14 Q. Please answer and we're done.</p> <p>15 A. If I knew then what I know now, I never would have</p> <p>16 made that statement.</p> <p>17 Q. Well, have you conducted a second investigation?</p> <p>18 A. No, sir.</p> <p>19 Q. Well, what did you -- you were involved in the</p> <p>20 discipline of employees, I mean, you never met this</p> <p>21 woman, you never reached out to her, have you?</p> <p>22 A. No, sir, it would have been inappropriate for me to</p> <p>23 interfere with the City's investigation, the outside</p> <p>24 counsel's investigation, it would have been</p> <p>25 inappropriate for me to interfere and interject myself</p>

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<p>1 into that.</p> <p>2 Q. Wait a minute. When you heard about DeSheila</p> <p>3 Howlett's complaints you talked to Mark Simlar about</p> <p>4 it?</p> <p>5 A. That's true.</p> <p>6 Q. Was that appropriate or inappropriate?</p> <p>7 A. Well, he came to --</p> <p>8 MR. MARKO: He has to answer the question.</p> <p>9 A. It was appropriate for Mark to come and make me aware</p> <p>10 of that.</p> <p>11 BY MR. ACHO:</p> <p>12 Q. And was it appropriate for you to make comments to him</p> <p>13 about her?</p> <p>14 A. About the case, yes.</p> <p>15 Q. So was it was appropriate?</p> <p>16 A. It was appropriate for the two of us to talk.</p> <p>17 Q. And you have not learned anything new since you made</p> <p>18 those comments, you've learned nothing new because</p> <p>19 you've conducted no investigation?</p> <p>20 A. I learned the City delayed implementation of her</p> <p>21 discipline until such time as she got her longevity</p> <p>22 check.</p> <p>23 Q. Let me understand something, are you familiar with the</p> <p>24 City of Warren's obligations with regard to their</p> <p>25 employees and longevity, do you know it or do you not</p>	<p>1 which you've used up 17 minutes, and just do what you</p> <p>2 need to do, Counsel, this is your time so go ahead.</p> <p>3 MR. ACHO: I don't understand how you talk</p> <p>4 to me in such a demeaning fashion. You direct me to</p> <p>5 do things all the time, it's highly inappropriate,</p> <p>6 Counsel.</p> <p>7 MR. MUNGO: Counsel. Counsel, finish your</p> <p>8 exam, please, it's late and everybody wants to go.</p> <p>9 BY MR. ACHO:</p> <p>10 Q. Mr. Murray, I'm trying to understand something,</p> <p>11 someone sought you out to be a witness on behalf of</p> <p>12 DeSheila Howlett, correct?</p> <p>13 A. No, sir.</p> <p>14 Q. No one sought you out?</p> <p>15 A. Not to speak on her behalf or her benefit, they asked</p> <p>16 me to tell the truth.</p> <p>17 Q. But your affidavit was not the complete truth?</p> <p>18 MR. MARKO: Objection, that</p> <p>19 mischaracterizes the testimony, assumes facts not in</p> <p>20 evidence.</p> <p>21 A. There's a great deal outside of this deposition. Yes,</p> <p>22 I would agree with you.</p> <p>23 BY MR. ACHO:</p> <p>24 Q. No, I'm not talking about the deposition.</p> <p>25 A. Or the affidavit, yes.</p>
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<p>1 know it?</p> <p>2 A. I don't know all the details of it, no.</p> <p>3 Q. Okay. So you don't know whether the delay, as you</p> <p>4 call it, of the discipline -- which you recommended</p> <p>5 two weeks, right?</p> <p>6 A. Uh-huh. Yes.</p> <p>7 Q. You don't know that that delay, if you call it a</p> <p>8 delay, in any way impacted her collection of her</p> <p>9 contractual longevity pay, you don't know, do you?</p> <p>10 A. Could you rephrase that because I didn't quite follow?</p> <p>11 You lost me somewhere.</p> <p>12 MR. ACHO: Let's go off the record a</p> <p>13 minute.</p> <p>14 MARKED FOR IDENTIFICATION:</p> <p>15 DEPOSITION EXHIBIT 2</p> <p>16 7:05 p.m.</p> <p>17 MR. MARKO: Counsel was just saying that --</p> <p>18 what were you saying, Counsel, put it on the record.</p> <p>19 MR. ACHO: I'm going to continue my thing.</p> <p>20 I don't want you glaring at me or glowering or making</p> <p>21 a face at me, sir.</p> <p>22 MR. MUNGO: Mr. ACHO, hold on a minute.</p> <p>23 MR. ACHO: I'm have a --</p> <p>24 MR. MUNGO: We have 3 hours and 45 minutes,</p> <p>25 all right, so you have the rest of that 45 minutes,</p>	<p>1 Q. There's more, and one of the critical things is your</p> <p>2 repeated statements to many people that DeSheila</p> <p>3 Howlett has no case, multiple people, multiple times,</p> <p>4 multiple dates, you don't deny that?</p> <p>5 A. I don't deny that. I'm not -- I don't have a legal</p> <p>6 basis for understanding everything involving that</p> <p>7 lawsuit so with my limited information at the time, I</p> <p>8 did make the statement.</p> <p>9 Q. Well, you, all of a sudden in the last half hour, say</p> <p>10 at the time --</p> <p>11 A. Yes, sir.</p> <p>12 Q. -- you never said that earlier today.</p> <p>13 What do you mean, at the time?</p> <p>14 A. Well, at the time that I was involved in helping to</p> <p>15 develop the discipline for her. I did not know, for</p> <p>16 example, that the City, when it came to issues of</p> <p>17 race, at least in three instances that I was aware of,</p> <p>18 delayed the disciplinary action, and in one instance</p> <p>19 the person said, yeah, I knew I was supposed to do it</p> <p>20 but no one ever asked me to do it.</p> <p>21 Q. We'll go through all three then.</p> <p>22 A. Okay.</p> <p>23 Q. With regards to Beyer, you're not aware of whether any</p> <p>24 alleged delay impacted her entitlement to longevity</p> <p>25 pay, correct?</p>

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<p>1 A. When you say impacted, the answer to that, I'm not 2 aware. 3 Q. Okay. So when you say, look what they did to help 4 her, you're just making an assumption that it helped 5 her, that's all you're doing, correct? 6 A. No, sir, the letter informing her of her discipline, 7 which was supposed to be immediate, was four weeks out 8 from when she actually did suffer her discipline, 9 that's indisputable, and at the same -- 10 Q. So what, what difference did it make? 11 A. It makes -- 12 Q. She wound up losing a lot of money, didn't she? 13 Didn't Beyer lose a lot of money? 14 A. I'm not aware of what she did except that I 15 recommended to -- I know that she got two weeks off 16 and it was supposed to be without pay but I didn't 17 check her payroll records, except to discover that her 18 two-week period coincided with her getting her 19 longevity pay, which helped to reduce the impact of 20 the discipline. 21 Q. How would it reduce the impact if a person -- here, if 22 you -- 23 A. Keep it. 24 Q. If you say -- 25 A. Yes, sir.</p>	<p>1 going to do to be nice to her or was she really being 2 heavily disciplined? 3 MR. MARKO: Objection to form. 4 A. I'm not privy to any conversation where someone 5 decided -- stated they would do that. The timing 6 buffered her discipline, that's indisputable. The 7 timing from the point where she got her letter to the 8 point where she had to serve out her two-week 9 discipline, it was supposed to be immediate -- 10 BY MR. ACHO: 11 Q. Understand something -- 12 A. -- and it was not immediate. 13 Q. Okay. Understand something -- 14 A. Yes, sir. 15 Q. -- if a person's entitled to something -- 16 A. Yes. 17 Q. -- the City could have given it to her in advance, 18 said, here, take this and we'll give you discipline 19 right now. 20 A. No, sir, it doesn't work that way. Longevity checks 21 are scheduled. 22 Q. That's my point. The fact that she wound up getting 23 the longevity pay at a time where her discipline 24 occurred, do you think she was happy about this, you 25 recommended two weeks off?</p>
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<p>1 Q. -- you have to give me \$5 -- 2 A. Okay. 3 Q. -- what is the difference in the impact whether I have 4 to give it to you now or I give it to you in 30 days, 5 I still have to give it up? 6 A. The idea was there was supposed to be an economic 7 consequence to her behavior and when you say, okay, 8 we're going to withhold your payroll, we're going to 9 give you \$3,000, that helps to undercut the 10 discipline. 11 Q. Well, wait a minute. 12 A. The timing was suspicious. 13 Q. Hold on. That \$3,000 was not a gift, was it? 14 A. No, sir. 15 Q. That \$3,000 was not a bonus, was it? 16 A. Longevity is kind of a bonus. 17 Q. But by bonus, it's not a reward, it is something that 18 a person earns. It's like you take vacation, let's 19 say you have four-weeks vacation, the fact that you 20 choose to take your vacation, when you lose the money, 21 you still lose the money, don't you? 22 A. I don't understand the question. 23 Q. See, you're saying -- are you suggesting that someone 24 said, oh, this is going to be good for her, are you 25 saying someone at that meeting said this is what we're</p>	<p>1 A. I don't know if she was happy or not, but what I do 2 believe is that her discipline was delayed so as to 3 have this mitigating financial impact of her receiving 4 her longevity check, because in most instances when 5 discipline is determined it is immediate. 6 Q. Really? Have you handled a lot of labor relations 7 matters? 8 A. Yes. 9 Q. Really? 10 A. Yes. 11 Q. Haven't you seen some disciplines occur a year later 12 prior to an arbitration? 13 A. That doesn't make it right. 14 Q. Well, hold on a second. I'm not asking whether you 15 agree with it, I'm telling you about labor practice. 16 I'm a labor attorney. I've handled thousands of 17 cases. I will tell you that discipline is almost 18 never immediate. 19 MR. MUNGO: Is there a question in here 20 somewhere? I'll object. 21 BY MR. ACHO: 22 Q. Isn't that a fact? Most discipline is not immediate 23 unless it's a termination. 24 MR. MARKO: Asked and answered. 25 MR. MUNGO: Assuming a fact that's not in</p>

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<p>1 evidence, it's total speculation.</p> <p>2 A. Not to my knowledge, no.</p> <p>3 BY MR. ACHO:</p> <p>4 Q. And how many disciplines that involved time off have</p> <p>5 you been involved in?</p> <p>6 A. I'd say maybe 50, 60.</p> <p>7 Q. 50 to 60?</p> <p>8 A. Yeah.</p> <p>9 Q. You're saying in every single one the discipline was</p> <p>10 immediate, is that right?</p> <p>11 A. Every one involved a date and the disciplinary letter</p> <p>12 to the employee with a start and an end date.</p> <p>13 Q. Sir, listen -- can you read the question back to the</p> <p>14 witness?</p> <p>15 (The following requested portion of the</p> <p>16 record was read by the reporter at</p> <p>17 7:14 p.m.):</p> <p>18 Q. You're saying in every single one the</p> <p>19 discipline was immediate, is that right?)</p> <p>20 BY MR. ACHO:</p> <p>21 Q. That's the question, were all the disciplines</p> <p>22 immediate, yes or no?</p> <p>23 A. To my knowledge, based on my experience, yes --</p> <p>24 Q. Okay.</p> <p>25 A. -- because they involved letters to the employee</p>	<p>1 discipline, and in terms of when she actually received</p> <p>2 that letter and a time frame from there, I think is</p> <p>3 different from when we initially talked about it. I</p> <p>4 don't have the necessary documentation to -- to say</p> <p>5 that that letter was given to her within the time</p> <p>6 frame it was investigated. There were questions about</p> <p>7 why the discipline had not been weeded out, not only</p> <p>8 on my part but also when I talked to outside counsel.</p> <p>9 Q. Who?</p> <p>10 A. Howard, he said he didn't know why the discipline had</p> <p>11 not been initiated so I would recommend you speak to</p> <p>12 Howard Schiffman.</p> <p>13 Q. Well, I did and he said that you said that Howlett's</p> <p>14 case was bullshit, that was the word that you used?</p> <p>15 A. I didn't use the word bullshit.</p> <p>16 Q. That's what he said.</p> <p>17 MR. MARKO: Objection, there's no question.</p> <p>18 BY MR. ACHO:</p> <p>19 Q. Are you denying that that's what you told Howard</p> <p>20 Schiffman?</p> <p>21 A. I don't recall using the word, bullshit.</p> <p>22 Q. Hold on. Do you deny it or you don't recall it?</p> <p>23 A. I don't recall it.</p> <p>24 Q. All right. So you could have said Howlett's case was</p> <p>25 bullshit, you could have, just don't remember,</p>
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<p>1 indicating what the discipline was for the infraction</p> <p>2 and they always contained a start date and an end</p> <p>3 date.</p> <p>4 Q. Which was immediate?</p> <p>5 A. Yes, immediate.</p> <p>6 Q. Let me ask you this, the discipline to her, were you</p> <p>7 involved in writing it, did you proof the letter, did</p> <p>8 you read the letter?</p> <p>9 A. I did read the letter, yes.</p> <p>10 Q. Did you find anything in the letter, which was April</p> <p>11 4, 2017, disciplining Barbara Beyer, did you find</p> <p>12 anything in the letter inappropriate?</p> <p>13 A. I'd have to read the letter again.</p> <p>14 Q. Well, do you have any evidence that you sent any</p> <p>15 letter or note to Mr. Simlar challenging the</p> <p>16 discipline?</p> <p>17 A. No, sir.</p> <p>18 Q. Okay. But you say the problem was in the letter of</p> <p>19 discipline, it didn't have a start date and an end</p> <p>20 date, correct?</p> <p>21 A. No, it should have had a start date.</p> <p>22 Q. Did it have a start date?</p> <p>23 A. There are two versions of that letter.</p> <p>24 Q. Two versions?</p> <p>25 A. Two versions of it. We worked up a sample, a</p>	<p>1 correct?</p> <p>2 MR. MARKO: Objection, speculation.</p> <p>3 BY MR. ACHO:</p> <p>4 Q. You could have?</p> <p>5 A. I don't recall it.</p> <p>6 Q. You don't recall it?</p> <p>7 A. I don't recall using that word.</p> <p>8 Q. Okay. What word would you have used?</p> <p>9 MR. MARKO: Objection, speculation.</p> <p>10 BY MR. ACHO:</p> <p>11 Q. You used a word, what was it?</p> <p>12 A. I didn't say bullshit.</p> <p>13 Q. What word did you use?</p> <p>14 A. I don't know, sir. I don't remember, that was a --</p> <p>15 Q. You talked to Howard Schiffman?</p> <p>16 A. I understand. I talked to Howard Schiffman about the</p> <p>17 delay and the implementation of her discipline.</p> <p>18 Q. And you also discussed with him the lack of merit of</p> <p>19 DeShella Howlett's case, you said it had no merit,</p> <p>20 correct?</p> <p>21 A. At that time, yes, sir, I did.</p> <p>22 Q. And but for the letter of discipline, not having the</p> <p>23 dates, then everything is fine, right?</p> <p>24 A. No, sir.</p> <p>25 Q. But you said that's why you changed your mind because</p>

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<p style="text-align: right;">Page 335</p> <p>1 the letter of discipline didn't have an immediate</p> <p>2 date?</p> <p>3 A. I saw a pattern of delayed implementation when the</p> <p>4 issue was race-based.</p> <p>5 Q. Let's go about the other two.</p> <p>6 A. Okay.</p> <p>7 Q. Tell me about those?</p> <p>8 A. The other was Detective Sergeant Shawn Johnson and</p> <p>9 from what I was told that situation occurred in 2016.</p> <p>10 Q. Hold on. Wait a minute now. So you don't have any</p> <p>11 personal knowledge about this, about Shawn Johnson?</p> <p>12 MR. MARKO: Objection to form.</p> <p>13 A. I have -- I understood his discipline was to include</p> <p>14 diversity training, was not executed.</p> <p>15 BY MR. ACHO:</p> <p>16 Q. Sir, did you hear my question?</p> <p>17 Would you read it back to the witness:</p> <p>18 MR. MARKO: He answered the question.</p> <p>19 MR. ACHO: No, he didn't.</p> <p>20 (The following requested portion of the</p> <p>21 record was read by the reporter at</p> <p>22 7:19 p.m.):</p> <p>23 Q. Hold on. Wait a minute now. So you</p> <p>24 don't have any personal knowledge about</p> <p>25 this, about Shawn Johnson?)</p>	<p style="text-align: right;">Page 337</p> <p>1 Q. So you made a recommendation to hire a black attorney,</p> <p>2 who was hired?</p> <p>3 A. Not according to Amanda Mika but, yes, I did, so</p> <p>4 that's ballpark -- inside the ballpark conversation</p> <p>5 but go ahead.</p> <p>6 Q. Now, I understand --</p> <p>7 A. I made a recommendation that the mayor hire Ethan, but</p> <p>8 at a meeting Amanda Mika said that my recommendation</p> <p>9 was inconsequential, that the mayor already had him in</p> <p>10 his eyesight, which he did not.</p> <p>11 Q. Well, but my point is, here you --</p> <p>12 A. I thought Ethan was a good hire.</p> <p>13 Q. Okay. And the mayor hired him?</p> <p>14 A. Yes.</p> <p>15 Q. And there was another African-American you recommended</p> <p>16 and the mayor hired him?</p> <p>17 A. Yes.</p> <p>18 Q. And then there was three other candidates that the</p> <p>19 mayor was looking to hire, these African-American</p> <p>20 women, and you said hold up, right?</p> <p>21 A. Based on him saying to me that he was concerned about</p> <p>22 the backlash based on Dean Berry showing himself, and</p> <p>23 maybe you know who Dean Berry is, and Scott Stevens on</p> <p>24 the city counsel, all of that, within that</p> <p>25 conversation, I did say that, yeah.</p>
<p style="text-align: right;">Page 336</p> <p>1 BY MR. ACHO:</p> <p>2 Q. Do you know what personal knowledge means?</p> <p>3 A. Yes.</p> <p>4 Q. You had no personal knowledge about Shawn Johnson,</p> <p>5 personal, correct?</p> <p>6 MR. MARKO: Asked and answered.</p> <p>7 A. Except to the extent that I talked to him during the</p> <p>8 training, which I conducted for him, no.</p> <p>9 BY MR. ACHO:</p> <p>10 Q. Well, wait a minute, talking to him is hearsay,</p> <p>11 correct, you were not involved in the disciplinary</p> <p>12 process, you weren't, were you?</p> <p>13 MR. MARKO: Objection, calls for a legal</p> <p>14 conclusion, compound, form.</p> <p>15 A. Not in Shawn Johnson's case, except that --</p> <p>16 BY MR. ACHO:</p> <p>17 Q. Okay.</p> <p>18 A. Except that when I found out that he had not completed</p> <p>19 that part of his required disciplinary discipline, I</p> <p>20 did share with Mark that he should be provided</p> <p>21 diversity training at the same time as the other two</p> <p>22 individuals.</p> <p>23 Q. And did he get it?</p> <p>24 A. Yes, he did get in and I did do the diversity</p> <p>25 training.</p>	<p style="text-align: right;">Page 338</p> <p>1 Q. But here you make a recommendation on the discipline</p> <p>2 to the woman who offended DeSheila Howlett and that</p> <p>3 was followed, correct?</p> <p>4 A. It was partially implemented.</p> <p>5 Q. You said two weeks, they did it, right?</p> <p>6 A. It's when they did it.</p> <p>7 Q. They did it, forget the when, they did it?</p> <p>8 A. They did it.</p> <p>9 Q. Okay. Then you recommended that this man get</p> <p>10 training, he's got to get it, and the City said yes,</p> <p>11 you're right, they did that too?</p> <p>12 A. That's correct.</p> <p>13 Q. Okay. Let's talk about the third one.</p> <p>14 A. The third one would be a lieutenant from the fire</p> <p>15 department, I can't remember his name. I can't</p> <p>16 remember his name.</p> <p>17 Q. When did it happen?</p> <p>18 A. That had happened in 20 -- I believe, 2016.</p> <p>19 Q. Again, you had no personal knowledge, again, did you?</p> <p>20 A. Until it was brought to my attention.</p> <p>21 Q. Sir, something coming to your attention is not the</p> <p>22 same as personal knowledge, it's when you are</p> <p>23 involved, you're there, you see things. You had no</p> <p>24 personal knowledge in that, did you?</p> <p>25 MR. MARKO: Asked and answered.</p>

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<p style="text-align: right;">Page 339</p> <p>1 A. No.</p> <p>2 MR. ACHO: We're done.</p> <p>3 MR. MARKO: Okay.</p> <p>4 MARKED FOR IDENTIFICATION:</p> <p>5 DEPOSITION EXHIBITS 3-7, 9</p> <p>6 7:24 p.m.</p> <p>7 (Recess taken at 7:24 p.m.)</p> <p>8 (Back on the record at 7:29 p.m.)</p> <p>9 MR. ACHO: The time is exhausted but</p> <p>10 counsel is now going to ask questions of his witness</p> <p>11 and so what I'm going to do is I'm going to do</p> <p>12 follow-up questions as necessary, and I think</p> <p>13 counselor is not going to allow me to do that, in</p> <p>14 which case we'll take it up with the court tomorrow.</p> <p>15 MR. MARKO: Yeah, we've exhausted all the</p> <p>16 time here. My client has a medical condition. He's</p> <p>17 exhausted. It's now 7:30 p.m. As courtesy to</p> <p>18 plaintiff's counsel, I'm going to allow him to ask</p> <p>19 some questions and then I'll give you five minutes to</p> <p>20 ask what you need to ask since I think we've went</p> <p>21 around and around here, Counsel, and I understand your</p> <p>22 position and you understand mine and you guys can take</p> <p>23 it up with the judge, okay?</p> <p>24 MR. ACHO: Yeah, I understand what you're</p> <p>25 saying. I don't know what he's going to ask and so I</p>	<p style="text-align: right;">Page 341</p> <p>1 Q. So, sir, have you ever seen that document before?</p> <p>2 A. No.</p> <p>3 Q. Okay. Are you familiar with the incidents that are</p> <p>4 described in that document?</p> <p>5 MR. ACHO: Okay. Wait. I'm going to</p> <p>6 object. This witness has never seen this exhibit. He</p> <p>7 has no personal knowledge and I strenuously object to</p> <p>8 the admission of this document into evidence based on</p> <p>9 those two objections.</p> <p>10 MR. MARKO: Go ahead.</p> <p>11 BY MR. MUNGO:</p> <p>12 Q. Are you familiar with the events that are described in</p> <p>13 that document?</p> <p>14 A. I'm familiar with the complaints that were made, yes.</p> <p>15 Q. And for the record, what were those complaints, you</p> <p>16 don't have to be word for word?</p> <p>17 A. The complaints are that Ms. Howlett was the subject of</p> <p>18 racially insensitive comments expressed to her by</p> <p>19 Shawn Johnson.</p> <p>20 Q. Okay. Was Shawn Johnson a coworker of Ms. Howlett's?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. At the Warren Police Department?</p> <p>23 A. Yes.</p> <p>24 Q. He was a white male?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 340</p> <p>1 can't limit myself so we have to see what comes up</p> <p>2 that's different, new, some shading, so we'll have to</p> <p>3 deal with it.</p> <p>4 MR. MARKO: I understand.</p> <p>5 MR. MUNGO: Let the record reflect I'm</p> <p>6 showing the deponent Deposition Exhibit Number 4.</p> <p>7 MR. ACHO: What happened to 3?</p> <p>8 MR. MUNGO: Is it 3 on there?</p> <p>9 MR. ACHO: 4.</p> <p>10 MR. MUNGO: Didn't I say 4?</p> <p>11 MR. ACHO: You did and I said what happened</p> <p>12 to Number 3?</p> <p>13 MR. MUNGO: 3 is the discipline.</p> <p>14 MR. ACHO: You're not introducing 3 yet?</p> <p>15 MR. MUNGO: No, sir, I'm doing 4.</p> <p>16 Let the record reflect that the deponent is</p> <p>17 examining Deposition Exhibit 4.</p> <p>18 RE-EXAMINATION</p> <p>19 BY MR. MUNGO:</p> <p>20 Q. Mr. Murray, could you take a moment and examine that</p> <p>21 document, sir, and then after you have concluded your</p> <p>22 examination of that document, please let me know, I</p> <p>23 have a few questions for you.</p> <p>24 A. I'm -- some of this seems repetitive. Okay. There's</p> <p>25 more. Okay. I've read it.</p>	<p style="text-align: right;">Page 342</p> <p>1 Q. And the charge was, the allegation was racial</p> <p>2 harassment, correct?</p> <p>3 A. Yes.</p> <p>4 Q. If you look at page 17, in those small numbers at the</p> <p>5 very bottom in the middle of the page, sir, does that</p> <p>6 particular document sustain the finding that Shawn</p> <p>7 Johnson actually engaged in racial harassment of</p> <p>8 Ms. Howlett?</p> <p>9 A. That's what it does reflect.</p> <p>10 Q. You indicated earlier in response to counsel's</p> <p>11 questions, you were -- you had -- in part of your</p> <p>12 response you indicated that you had trained Shawn</p> <p>13 Johnson or conducted diversity training for Shawn</p> <p>14 Johnson, correct?</p> <p>15 A. Yes.</p> <p>16 Q. Was that diversity training related at all to the</p> <p>17 events that are described in Deposition Exhibit Number</p> <p>18 4 --</p> <p>19 A. Yes.</p> <p>20 Q. -- where Shawn Johnson -- was it was sustained that</p> <p>21 Shawn Johnson engaged in racial harassment of</p> <p>22 Ms. Howlett?</p> <p>23 A. That's correct. Yes.</p> <p>24 Q. When you trained Shawn Johnson did you get any direct</p> <p>25 personal knowledge as to what Shawn Johnson did to Ms.</p>

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<p style="text-align: right;">Page 343</p> <p>1 Howlett that constituted racial harassment?</p> <p>2 MR. ACHO: I'm going to object, no personal</p> <p>3 knowledge and hearsay, it should be not allowed.</p> <p>4 A. I spoke to Shawn Johnson, as I did to the other two</p> <p>5 participants in the training, either during the break</p> <p>6 or at the conclusion of the training, yes.</p> <p>7 BY MR. MUNGO:</p> <p>8 Q. Okay. And did Shawn Johnson tell you what he did to</p> <p>9 Ms. Howlett to constitute the racial harassment?</p> <p>10 MR. ACHO: Same objection, hearsay.</p> <p>11 A. He did share with me that he made the gorilla remark</p> <p>12 but he did not mean to offend her.</p> <p>13 Q. Okay. But was she offended?</p> <p>14 A. Yes, based on what I have here in front of me, yes.</p> <p>15 Q. And during your diversity training were you able to</p> <p>16 help Shawn Johnson understand that that was racially</p> <p>17 offensive?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. Did he accept that fact that that was racially</p> <p>20 offensive?</p> <p>21 A. At the training -- the conclusion of the training,</p> <p>22 yes.</p> <p>23 Q. Okay. And Shawn Johnson was, as a result of his</p> <p>24 racially -- his racial harassment of Ms. Howlett, were</p> <p>25 there also any allegations that you're aware of that</p>	<p style="text-align: right;">Page 345</p> <p>1 of Warren, that Shawn Johnson was separated from</p> <p>2 DeSheila Howlett, physically, in terms of his work</p> <p>3 location?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. And did you come to learn whether or not Shawn</p> <p>6 Johnson was relocated in the physical presence of</p> <p>7 Ms. Howlett and her location?</p> <p>8 A. Yes.</p> <p>9 Q. And was that something that based on your analysis and</p> <p>10 your understanding of -- as a diversity coordinator</p> <p>11 and with the history that you have, is something that</p> <p>12 is appropriate to do?</p> <p>13 A. No, it's completely inappropriate.</p> <p>14 MR. ACHO: Okay. I'm going to object,</p> <p>15 which is why I'm going to go to court to continue this</p> <p>16 because this was all brought up in the initial</p> <p>17 testimony, okay, so now that you're bringing it up,</p> <p>18 again, I'm going to inquire into it, okay?</p> <p>19 MR. MARKO: Well, I'm going to object. I</p> <p>20 think that if it was brought up in initial testimony</p> <p>21 you were on notice today and were able to deal with it</p> <p>22 in your --</p> <p>23 MR. ACHO: I've had sufficient, but now</p> <p>24 there's other things pertaining to it so I'm just</p> <p>25 telling you that I am going to continue.</p>
<p style="text-align: right;">Page 344</p> <p>1 constituted sexual harassment of Ms. Howlett by Shawn</p> <p>2 Johnson?</p> <p>3 A. I'm aware there was a discussion regarding whether or</p> <p>4 not she had had any sexual involvement with any of the</p> <p>5 officers in the complaint.</p> <p>6 MR. ACHO: I'm going to have a continuing</p> <p>7 objection, can I have that, Counsel, based on -- a</p> <p>8 continuing objection to all this inquiry of which he</p> <p>9 has no personal knowledge.</p> <p>10 MR. MUNGO: You don't have to ask me. You</p> <p>11 can just put it on the record.</p> <p>12 MR. ACHO: No. No, a continuing objection</p> <p>13 has to be stipulated to.</p> <p>14 MR. MUNGO: Fine.</p> <p>15 BY MR. MUNGO:</p> <p>16 Q. So, sir, you have had an opportunity to read the</p> <p>17 complaint that Ms. Howlett has filed against the City</p> <p>18 of Warren?</p> <p>19 A. Yes.</p> <p>20 Q. And in that complaint did she allege, based on your</p> <p>21 recollection, sexual harassment in addition to racial</p> <p>22 harassment?</p> <p>23 A. I believe so, yes.</p> <p>24 Q. And you do recall, as part of your examination of</p> <p>25 documents and/or conversations with others at the City</p>	<p style="text-align: right;">Page 346</p> <p>1 MR. MARKO: These are no new areas of</p> <p>2 inquiry and you were already on notice of all of them.</p> <p>3 MR. ACHO: Well, I'll do what I have to do,</p> <p>4 it's not a problem.</p> <p>5 BY MR. MUNGO:</p> <p>6 Q. Okay. And are you familiar also -- let the record</p> <p>7 reflect I'm about to show the deponent Deposition</p> <p>8 Exhibit Number 3.</p> <p>9 Are you familiar with that document, sir?</p> <p>10 Take a moment and examine that document, Mr. Murray,</p> <p>11 and once you're done and if you could indicate that</p> <p>12 you've done so, I'd appreciate it?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. What is that document, Deposition Exhibit</p> <p>15 Number 4, for the record, sir?</p> <p>16 A. This is a document reflecting --</p> <p>17 Q. I'm sorry, Number 3?</p> <p>18 A. This is a document reflecting an internal discussion</p> <p>19 regarding Ms. Howlett's response to comments by</p> <p>20 Barbara Beyer, and it also includes the original</p> <p>21 letter detailing her discipline with specified periods</p> <p>22 of time for the discipline to occur, noticeably March</p> <p>23 8th, 2017 continuing through March 21st, 2017.</p> <p>24 Q. And when was her discipline actually implemented?</p> <p>25 A. Sometime after April, I believe.</p>

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<p style="text-align: right;">Page 347</p> <p>1 Q. After April?</p> <p>2 A. Yes.</p> <p>3 Q. Almost 30 days after the date in which the</p> <p>4 instructions from the City and her disciplinary</p> <p>5 regimen was actually memorialized in that document?</p> <p>6 A. That's correct, March 6th was the date in which this</p> <p>7 letter was written to be conveyed to her, which</p> <p>8 details her discipline beginning on Wednesday, March</p> <p>9 8th and concluded on March 21st.</p> <p>10 Q. You indicated earlier that the City of Warren has a</p> <p>11 history of delayed disciplinary action when it</p> <p>12 involves race discrimination and racially offensive</p> <p>13 conduct by its police officers, correct?</p> <p>14 A. Yes.</p> <p>15 MR. ACHO: Objection to this line of</p> <p>16 inquiry of which he has no personal knowledge.</p> <p>17 Continuing objection given?</p> <p>18 MR. MUNGO: Yes.</p> <p>19 A. Yes, this would be an example of that.</p> <p>20 BY MR. MUNGO:</p> <p>21 Q. And what did Barb Beyer do to Ms. Howlett that</p> <p>22 resulted in her discipline?</p> <p>23 A. She used a derogatory racial slur by referring to an</p> <p>24 African-American male as a nigger.</p> <p>25 Q. Okay. Did she say it more than once?</p>	<p style="text-align: right;">Page 349</p> <p>1 Q. In what way?</p> <p>2 A. From the standpoint that when racial slurs are</p> <p>3 bantered about and directed to a person of color it</p> <p>4 can have a long-term impact on their psyche with what</p> <p>5 respect to -- what's that word -- connotes and also</p> <p>6 its impact on the person who is on the hearing end of</p> <p>7 that.</p> <p>8 MR. ACHO: I'm going to object. Not only</p> <p>9 is it hearsay, it's speculation and I'm going to ask</p> <p>10 it be stricken. This gentleman never spoke to this</p> <p>11 woman so this is why I have to recross on this.</p> <p>12 BY MR. MUNGO:</p> <p>13 Q. So, now, Mr. Murray, you indicated that you trained</p> <p>14 Ms. Beyer or you provided diversity training for Ms.</p> <p>15 Beyer to deal, specifically, with her racially</p> <p>16 discriminatory, hostile verbal conduct toward Ms.</p> <p>17 Howlett, correct?</p> <p>18 A. Yes.</p> <p>19 Q. And you did also Shawn Johnson --</p> <p>20 A. Yes.</p> <p>21 Q. -- based on his racially discriminatory, hostile</p> <p>22 conduct toward Ms. Howlett, correct?</p> <p>23 A. Yes.</p> <p>24 Q. And do you know that Mr. Shawn Johnson's racially</p> <p>25 hostile, discriminatory, verbal conduct and other</p>
<p style="text-align: right;">Page 348</p> <p>1 A. Yes.</p> <p>2 Q. Okay. And did Ms. Howlett hear her say that?</p> <p>3 A. Yes.</p> <p>4 Q. Was Ms. Howlett offended at that?</p> <p>5 A. Yes.</p> <p>6 Q. Was Ms. Howlett affected in her ability to work as a</p> <p>7 result of hearing Ms. Beyer repeatedly use the N word?</p> <p>8 MR. ACHO: This is still all hearsay, no</p> <p>9 personal knowledge, none. By the way, when you talk</p> <p>10 about delaying a deposition, this was covered numerous</p> <p>11 times at the beginning so I don't want any complaints</p> <p>12 that we're going to go a while after you're done.</p> <p>13 MR. MARKO: We're not, we're --</p> <p>14 MR. ACHO: Oh, we are.</p> <p>15 MR. MARKO: I'm terminating the deposition.</p> <p>16 MR. ACHO: Then you'll have to do that.</p> <p>17 A. Yes.</p> <p>18 BY MR. MUNGO:</p> <p>19 Q. I'm sorry?</p> <p>20 A. Your question had to do with the impact on DeSheila --</p> <p>21 Q. Yes.</p> <p>22 A. -- by the use of the word nigger.</p> <p>23 Q. Yes, did it impact her ability to work as a police</p> <p>24 officer at the City of Warren Police Department?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 350</p> <p>1 conduct towards Ms. Howlett affected her ability to</p> <p>2 work as a police officer as well?</p> <p>3 A. Yes.</p> <p>4 Q. And you trained another person, correct, diversity</p> <p>5 training, correct, at the time you trained those two?</p> <p>6 A. Yes.</p> <p>7 Q. Go ahead.</p> <p>8 A. The lieutenant from the fire department.</p> <p>9 Q. Okay. Why did you have to train him, what kind of</p> <p>10 racially discriminatory and inappropriate comments did</p> <p>11 he make regarding race?</p> <p>12 MR. ACHO: Same objection, no personal</p> <p>13 knowledge, no foundation, it's all hearsay.</p> <p>14 A. He used the word --</p> <p>15 MR. ACHO: Continuing objection.</p> <p>16 A. He used the word nigger to describe a firefighter by</p> <p>17 the name of Jose Suarez.</p> <p>18 BY MR. MUNGO:</p> <p>19 Q. And what did he -- did he use any other words to</p> <p>20 describe him in addition to the word nigger?</p> <p>21 A. It was that he was the house nigger of the firehouse</p> <p>22 is what I recall Lieutenant -- the lieutenant stating</p> <p>23 to him, that's what the lieutenant shared with me</p> <p>24 after the training.</p> <p>25 Q. So all three of these individuals admitted to you that</p>

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<p style="text-align: right;">Page 351</p> <p>1 they used racially hostile language that's insensitive</p> <p>2 and condescending and demeaning to African-Americans</p> <p>3 and in this particular case I think he was Hispanic,</p> <p>4 Cuban?</p> <p>5 A. He claimed to be Cuban.</p> <p>6 Q. All right. All right. Sir, at the time you testified</p> <p>7 earlier when counsel asked you a question when you</p> <p>8 said Ms. Howlett didn't have a case, did you have the</p> <p>9 kind of information about Ms. Beyer's conduct,</p> <p>10 racially discriminatory and hostile conduct and Shawn</p> <p>11 Johnson's racially discriminatory and hostile conduct,</p> <p>12 did you have those details at the time that you made</p> <p>13 that statement?</p> <p>14 A. No, sir.</p> <p>15 Q. Okay. But now considering that you have that</p> <p>16 information, you have the documentation where they --</p> <p>17 both of the racially hostile and discriminatory</p> <p>18 demeaning conduct of each one of these individuals</p> <p>19 toward Ms. Howlett has been sustained, do you now have</p> <p>20 an opinion as to whether or not Ms. Howlett has a good</p> <p>21 case?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. Go ahead.</p> <p>24 A. I would say that based on the information that I've</p> <p>25 been -- that's been shared with me that her case is</p>	<p style="text-align: right;">Page 353</p> <p>1 that the City of Warren did not have a problem with</p> <p>2 racial discrimination and racially hostile attitudes</p> <p>3 and created a racially hostile environment towards</p> <p>4 African-Americans?</p> <p>5 A. No.</p> <p>6 MR. ACHO: Objection, leading and</p> <p>7 suggestive.</p> <p>8 BY MR. MUNGO:</p> <p>9 Q. It does not mean that, sir?</p> <p>10 A. That's right, this was an isolated incident where I</p> <p>11 saw some officers respond to a woman in distress</p> <p>12 across the street from Warren City Hall and they acted</p> <p>13 both professionally and humanely and this is what I</p> <p>14 witnessed. The officers, the two or three officers</p> <p>15 that were there and that was the extent of what I</p> <p>16 reflected in this.</p> <p>17 MR. ACHO: I need a five-minute break.</p> <p>18 MR. MARKO: Whatever you need, Counsel.</p> <p>19 (Recess taken at 7:49 p.m.)</p> <p>20 (Back on the record at 7:59 p.m.)</p> <p>21 MR. MUNGO: Let's go back on the record.</p> <p>22 So we just took a quick break at the</p> <p>23 request of Mr. Acho --</p> <p>24 MR. ACHO: Well, wait. I was back within</p> <p>25 five minutes. You guys were another six, seven</p>
<p style="text-align: right;">Page 352</p> <p>1 much stronger than it was when I didn't have this</p> <p>2 information.</p> <p>3 Q. Okay. Thank you. All right. And any statements that</p> <p>4 you made to counsel relative to any statements you may</p> <p>5 have made in the past that Ms. Howlett didn't have a</p> <p>6 good case, is no longer -- no longer holds water for</p> <p>7 you, correct?</p> <p>8 A. That's correct.</p> <p>9 MR. ACHO: I'm going to -- objection,</p> <p>10 leading, suggestive, speculative. He said he -- he</p> <p>11 didn't have personal knowledge. He doesn't know the</p> <p>12 law and he can't offer a legal opinion and now he</p> <p>13 does.</p> <p>14 MR. MUNGO: Okay. All right. Excuse me.</p> <p>15 Let the record reflect I'm about to show</p> <p>16 the deponent Deposition Exhibit Number 6.</p> <p>17 BY MR. MUNGO:</p> <p>18 Q. Take a look at that and tell me once you've had an</p> <p>19 opportunity to read that document, sir?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. Counsel showed you this document earlier,</p> <p>22 correct?</p> <p>23 A. Yes.</p> <p>24 Q. Does this document and what you penned in this</p> <p>25 document, sir, did you have the intent of conveying</p>	<p style="text-align: right;">Page 354</p> <p>1 minutes so don't put that on me.</p> <p>2 MR. MARKO: Well, we're back from the</p> <p>3 requested break, bathroom break, and what time are we</p> <p>4 at here? It's 8:00. Okay.</p> <p>5 MR. MUNGO: So let the record reflect that</p> <p>6 I've given the deponent Deposition -- is that</p> <p>7 Number --</p> <p>8 A. 7.</p> <p>9 BY MR. MUNGO:</p> <p>10 Q. Exhibit 7. Take a look at that document, sir, and</p> <p>11 examine it for purposes of identification and when</p> <p>12 you've done so if you can let me know, I'd appreciate</p> <p>13 it?</p> <p>14 A. This is my job description and my job duties.</p> <p>15 Q. Your job description and job duties as what, sir?</p> <p>16 A. As a diversity coordinator for the City of Warren.</p> <p>17 Q. And just before we get into this document, sir, Shawn</p> <p>18 Johnson, what is his race and gender?</p> <p>19 A. White male.</p> <p>20 Q. Barbara Beyer, what is her race and gender?</p> <p>21 A. White female.</p> <p>22 Q. What is the lieutenant from the fire department that</p> <p>23 you had provided diversity training that called the</p> <p>24 Cuban-American the house nigger?</p> <p>25 A. A white male.</p>

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<p style="text-align: right;">Page 355</p> <p>1 Q. A white male. Okay. We're going to look at 2 Deposition Exhibit Number 7, this is your complete job 3 description as diversity coordinator, sir? 4 A. Yes. 5 Q. Okay. Do you remember that counsel asked you a lot of 6 questions earlier about whether or not you went to the 7 civil service and met with them, whether you met with 8 this organization, HR, all these different 9 organizations within the City departments? 10 A. Yes. 11 Q. Take a look at your description and I want you to tell 12 me whether or not the things that counsel asked you 13 earlier were actually a part of your job description 14 and you were responsible for, okay -- 15 A. Yes, sir. 16 Q. -- and then part two I'm going to ask you is whether 17 or not the mayor allowed you to do it, okay? 18 A. Yes, sir. 19 Q. Let's take a look at very first paragraph, it says in 20 part, that as a diversity and inclusion coordinator, 21 will be appointed by and serve at the pleasure of the 22 mayor of the City of Warren. Was that your 23 understanding and was that exactly the nature of your 24 relationship, diversity coordinator? 25 A. That was my understanding.</p>	<p style="text-align: right;">Page 357</p> <p>1 Q. The second paragraph says, the diversity and inclusion 2 coordinator will be responsible for creating programs 3 aimed at enhancing community awareness and addressing 4 community concerns and engagement and then it goes on 5 to articulate some other details. Were you able to 6 actually engage in executing the responsibilities 7 contained in that paragraph, sir? 8 A. No, I was told by the mayor to put diversity on the 9 back burner until after the 2019 primary election. 10 Q. Okay. And then the third paragraph, diversity and 11 inclusion coordinator shall also make recommendations 12 to the mayor's office that will include 13 diversity-oriented programs and initiatives, 14 specifically addressing interaction between city 15 employees and members of the public. Were you able to 16 execute those responsibilities? 17 A. In a limited fashion but, generally, no, because the 18 mayor routinely rejected my recommendation. 19 Q. Okay. Going down to the central function section of 20 Deposition Exhibit 7, the first paragraph there says, 21 the essential function of the diversity and inclusion 22 coordinator will be to work effectively with 23 employees, department heads, administrators, city 24 offices, city business and religious leaders, 25 representatives of state and federal government and</p>
<p style="text-align: right;">Page 356</p> <p>1 Q. Did the mayor terminate you? 2 A. Yes. 3 Q. It says the department -- that this was a departmental 4 level manager. Were you a departmental level manager? 5 A. I was led to believe so, but was told just before my 6 termination that I was not. 7 Q. Okay. Well, when you first started working were you, 8 in fact, a departmental manager and treated as a 9 departmental manager? 10 A. Initially, yes. 11 Q. And then later the mayor -- would that be considered 12 the demotion that you were no longer a departmental 13 manager? 14 MR. ACHO: I'm going to object. All these 15 are leading and suggestive. 16 A. The mayor shared with me that I was a division head 17 and not a department level manager. 18 BY MR. MUNGO: 19 Q. How long after signing your employment contract did 20 the mayor tell you that? 21 A. 7, 8, 9, that was in November, 10 months. 22 Q. About 10 months. Okay. 23 A. Yes. 24 Q. After you were hired? 25 A. Yes.</p>	<p style="text-align: right;">Page 358</p> <p>1 other appropriate stakeholders to achieve the greatest 2 extent reasonably possible the following, and we'll go 3 into the following in a moment. Were you able to 4 execute those responsibilities, sir? 5 A. To some extent, yes, but, no, I was told by the mayor 6 that I could not train certain City employees. 7 Q. Okay. 8 A. That being employees of the clerk's office and the 9 treasurer's office, that I was not to have any 10 communication with them and that I was not to train 11 them or to have any discussions about diversity 12 training. 13 Q. And what about the police department? 14 A. The police department, no. I would say no, he did not 15 expressly forbid me to put together diversity training 16 for the police department. 17 Q. Did Jere -- did the commissioner, Jere Green, assist 18 you and/or inhibit you from conducting training in the 19 police department? 20 A. He inhibited me from the standpoint that he did not 21 respond to my request for information because I, 22 specifically, asked for information regarding any 23 trainings that were conducted within a 36-month period 24 and any trainings expressly dealing with diversity, 25 but he did not respond to my requests.</p>

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<p>1 Q. And without him responding were you able to pursue</p> <p>2 fulfilling your responsibilities for training in the</p> <p>3 police department?</p> <p>4 A. No, sir.</p> <p>5 Q. Did you inform the mayor of Jere Green's reluctance to</p> <p>6 assist you in diversity training for the police</p> <p>7 department?</p> <p>8 A. Yes, sir.</p> <p>9 Q. What did the mayor tell you in response?</p> <p>10 A. The mayor said he didn't want to agitate the police</p> <p>11 unions because he counted on the police unions and the</p> <p>12 fire unions for endorsements and he did not want to</p> <p>13 agitate them.</p> <p>14 Q. Did he express any sentiment in terms of Jere Green</p> <p>15 being receptive to diversity?</p> <p>16 A. He shared with me, he said Jere Green was a racist,</p> <p>17 stayed in the bar, was constantly drunk and no</p> <p>18 interest whatsoever in diversifying the City police</p> <p>19 force.</p> <p>20 Q. Very good. Let's look at the different ways in which</p> <p>21 you were to execute your essential functions toward</p> <p>22 the bottom of the first page of Deposition Exhibit</p> <p>23 Number 7, it says, to promote diversity and inclusion</p> <p>24 in the City of Warren work force, including the police</p> <p>25 department, fire department, and all other city</p>	<p>1 Q. Why not?</p> <p>2 A. The mayor expressly forbade it.</p> <p>3 Q. Were you allowed to contact and communicate with the</p> <p>4 human resource department for the purpose of diversity</p> <p>5 training?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. What happened with that contact?</p> <p>8 A. All of my contact with the human resource department,</p> <p>9 in particular Mark Simlar, was positive when it came</p> <p>10 to supporting diversity.</p> <p>11 Q. Okay. What did Mark Simlar do to support diversity?</p> <p>12 A. Well, he participated in the trainings and we had</p> <p>13 numerous conversations about the value of diversity</p> <p>14 but I feared it didn't go beyond him.</p> <p>15 Q. Okay. Was he responsible for the other -- in terms of</p> <p>16 facilitating training for the other departments?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. Did he attempt to bring training diversity</p> <p>19 training to the other departments?</p> <p>20 A. No.</p> <p>21 Q. He did not?</p> <p>22 A. No.</p> <p>23 Q. So it seems that his particular interest and/or energy</p> <p>24 level and initiatives were lacking in terms of</p> <p>25 promoting diversity, is that correct, based on what he</p>
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<p>1 departments and functions by developing and enforcing</p> <p>2 policies and programs to attract, retain and promote a</p> <p>3 diverse workforce in which employees value and respect</p> <p>4 differences in workplace and in interactions with the</p> <p>5 public. Were you able to execute those</p> <p>6 responsibilities, sir?</p> <p>7 A. No, I was not allowed to promote diversity within --</p> <p>8 for city employees working in the treasurer's office</p> <p>9 and in the city clerk's office and to that extent I</p> <p>10 was prevented from providing training to them as city</p> <p>11 employees.</p> <p>12 Q. Okay. And the mayor specifically prohibited you from</p> <p>13 doing so?</p> <p>14 A. Yes, there's correspondence from the clerk's -- from</p> <p>15 the treasurer's office on at least three occasions</p> <p>16 raising that as an issue.</p> <p>17 Q. Okay. And the -- with regard to the training,</p> <p>18 counsel -- do you recall counsel -- strike that.</p> <p>19 Do you recall counsel asking you earlier</p> <p>20 whether or not you had contacted the civil service</p> <p>21 department?</p> <p>22 A. Yes.</p> <p>23 Q. Were you allowed to contact the civil service</p> <p>24 department?</p> <p>25 A. No.</p>	<p>1 did not do?</p> <p>2 MR. ACHO: I'm going to object, this has</p> <p>3 constantly been leading and suggestive, that's why he</p> <p>4 is your lawyer without a doubt, this is just --</p> <p>5 MR. MARKO: Objection, Counsel.</p> <p>6 MR. ACHO: This is just a sham, that's all</p> <p>7 this is --</p> <p>8 MR. MARKO: I'll object to that.</p> <p>9 MR. ACHO: -- and this communication has</p> <p>10 been going on with counsel through this third party,</p> <p>11 it's highly inappropriate and we'll bring it up to the</p> <p>12 court at the right time.</p> <p>13 MR. MARKO: I object, all your questions in</p> <p>14 this case were leading and I --</p> <p>15 MR. ACHO: I can do that for cross-exam</p> <p>16 purposes. This was not my deposition.</p> <p>17 MR. MARKO: This is my client.</p> <p>18 MR. ACHO: This is not my deposition, it's</p> <p>19 his.</p> <p>20 MR. MARKO: It's really my client. You</p> <p>21 requested the deposition here today so --</p> <p>22 MR. ACHO: Wait a minute. It is a</p> <p>23 continuation. You know what, I've made my objection.</p> <p>24 Just so we know, we're going on and on and on and on</p> <p>25 and I will get this deposition done pursuant to the</p>

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<p style="text-align: right;">Page 363</p> <p>1 judge's direction.</p> <p>2 MR. MARKO: As far as I'm concerned, it's</p> <p>3 coming to a close.</p> <p>4 MR. ACHO: Okay. You're going to terminate</p> <p>5 it after he's done, you're not cutting him off.</p> <p>6 MR. MARKO: I'm allowing Mr. Mungo some</p> <p>7 follow up based on your -- we started at 2:30 and</p> <p>8 we --</p> <p>9 MR. ACHO: No, we didn't.</p> <p>10 MR. MARKO: Yes, we did.</p> <p>11 MR. ACHO: Wait. Wait. Wait, that's not</p> <p>12 true.</p> <p>13 MR. MARKO: At 2:35, approximately, when we</p> <p>14 came in and we've been here so let's finish. If you</p> <p>15 keep making these objections it's going to be longer.</p> <p>16 MR. ACHO: Well, I have to tell you</p> <p>17 something, there hasn't been that many objections.</p> <p>18 There were like 101 objections made by you and your</p> <p>19 brother counsel, 101.</p> <p>20 MR. MARKO: Okay.</p> <p>21 BY MR. MUNGO:</p> <p>22 Q. Okay. Mr. Murray, do you know whether or not Mark</p> <p>23 Similar did all that he could have done to promote</p> <p>24 diversity training and implementation of diversity for</p> <p>25 the City of Warren's various departments?</p>	<p style="text-align: right;">Page 365</p> <p>1 could have done.</p> <p>2 Q. So that was not your responsibility to put that</p> <p>3 language in the contracts, correct?</p> <p>4 A. No.</p> <p>5 Q. Okay. You didn't have authority to put that language</p> <p>6 in the contracts, correct?</p> <p>7 A. Correct.</p> <p>8 MR. ACHO: Objection, lack of foundation.</p> <p>9 BY MR. MUNGO:</p> <p>10 Q. That you did not have --</p> <p>11 A. I did not have the authority to do so.</p> <p>12 Q. Counselor asked you that earlier, whether or not you</p> <p>13 had authority to interject into the bargain for</p> <p>14 agreement language that deals with --</p> <p>15 A. Yes.</p> <p>16 MR. ACHO: I never asked that.</p> <p>17 BY MR. MUNGO:</p> <p>18 Q. -- diversity, correct?</p> <p>19 A. I believe so.</p> <p>20 Q. In any event, you did not have any authority to do so,</p> <p>21 correct?</p> <p>22 A. That's correct.</p> <p>23 Q. All right. I want to take a look at the next</p> <p>24 paragraph, it says -- and that would be the third --</p> <p>25 well, the second bullet item beneath the first</p>
<p style="text-align: right;">Page 364</p> <p>1 MR. ACHO: Objection, speculation.</p> <p>2 A. I would say -- based on my contact with him, I would</p> <p>3 say yes.</p> <p>4 BY MR. MUNGO:</p> <p>5 Q. That he did everything that he could do?</p> <p>6 A. Everything that I asked of him. I don't know exactly</p> <p>7 because he was wearing two hats, labor relations</p> <p>8 director and interim human resource director.</p> <p>9 Q. Okay. Okay. Okay. Now, did you understand my</p> <p>10 question? It's very important. Do you know whether</p> <p>11 or not he did everything that he was supposed to do to</p> <p>12 promote diversity within the City of Warren?</p> <p>13 MR. ACHO: What are you doing? You're</p> <p>14 impeaching your witness.</p> <p>15 A. No.</p> <p>16 BY MR. MUNGO:</p> <p>17 Q. You don't know?</p> <p>18 A. I don't know.</p> <p>19 Q. And why wouldn't you know? For the record, why</p> <p>20 wouldn't you know whether or not Mr. Similar did</p> <p>21 everything he could have done to promote diversity?</p> <p>22 A. Because as labor relations director he could have</p> <p>23 certain language put into the contracts that would</p> <p>24 further promote diversity, that was not in the</p> <p>25 contracts and so there are other things he possibly</p>	<p style="text-align: right;">Page 366</p> <p>1 paragraph on the essential functions where it says,</p> <p>2 the diversity and inclusion coordinator shall support</p> <p>3 a culture of inclusion in which every individual is</p> <p>4 valued, respected and supported and where the right</p> <p>5 conditions are in place for each person to achieve his</p> <p>6 or her full potential. Do you see that paragraph</p> <p>7 there?</p> <p>8 A. Yes.</p> <p>9 Q. Was that part of your job description?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. Were you able to implement and achieve and</p> <p>12 execute those responsibilities in that area?</p> <p>13 A. No.</p> <p>14 Q. Okay. Why not, sir?</p> <p>15 A. Because to -- part of the process of doing this is to</p> <p>16 engage others in the community and I attempted to do</p> <p>17 that through the diversity committee and the mayor</p> <p>18 shut that down and told me to -- don't go any further</p> <p>19 with engaging around developing the diversity</p> <p>20 committee.</p> <p>21 Q. And the next paragraph says, development support</p> <p>22 policies and practices with which promote and foster</p> <p>23 an inclusive culture where uniqueness of beliefs,</p> <p>24 background, talents, capabilities and ways of living</p> <p>25 are welcomed and leveraged for learning and informing</p>

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<p style="text-align: right;">Page 367</p> <p>1 better decisions in the workplace and in the 2 interaction between City employees and members of the 3 public. Were you able to execute those 4 responsibilities, sir?</p> <p>5 A. No.</p> <p>6 Q. And why not, sir?</p> <p>7 A. Because, again, the mayor shut down my ability to work 8 with members of the culture or members of the 9 community on establishing best practices that could be 10 implemented within city government.</p> <p>11 Q. Go to the second page, sir, the top of the second 12 page, determine and recommend appropriate diversity 13 initiatives, particularly focusing on the interaction 14 of employees with other employees, and on the 15 interaction and relationship of city employees with 16 residents of the city and members of the public to 17 create a culture of respect for and appreciation of 18 differences in ethnicity, gender, age, national 19 origin, disability, sexual orientation, education and 20 religion, including those persons with activity or 21 ability impairments. Were you able to execute those 22 responsibilities?</p> <p>23 A. Only one of that set, which is in the area of 24 disability. Again, the mayor prevented me from or 25 forbade me from developing the diversity committee,</p>	<p style="text-align: right;">Page 369</p> <p>1 department in the clerk's office and the treasurer's 2 office on any of this, on any diversity training 3 whatsoever, I was prohibited from doing so.</p> <p>4 Q. By who?</p> <p>5 A. By the mayor.</p> <p>6 Q. The next paragraph, it says, create and implement 7 communication strategies and content management for 8 training web resources for internal and external 9 audiences and print materials to support diversity and 10 related initiatives. Were you able to execute in 11 those responsibilities?</p> <p>12 A. I was allowed to secure training, materials, diversity 13 training materials and, in fact, it's that material 14 that I used for the three persons that I conducted -- 15 the employees that I conducted the diversity training 16 in but not any further.</p> <p>17 Q. When you say, not any further, can you elaborate, 18 please?</p> <p>19 A. With the exception of the EEOC training and the 20 Michigan Department of Civil Rights training, I was 21 not able to go further with training.</p> <p>22 Q. Okay. And who was trained in the City, which 23 department?</p> <p>24 A. All of the City departments except -- excuse me, all 25 appointees and department heads, I never got to where</p>
<p style="text-align: right;">Page 368</p> <p>1 which covers a lot of that paragraph but he did have 2 me focus on disability.</p> <p>3 Q. Did he have you ever focus on race?</p> <p>4 A. No.</p> <p>5 Q. Okay. Did he tend to avoid race?</p> <p>6 MR. ACHO: Objection, leading and 7 suggestive.</p> <p>8 A. The recommendations that I made in order to engage the 9 race as a representative of the city's demographics 10 were always shot down.</p> <p>11 BY MR. MUNGO:</p> <p>12 Q. By whom?</p> <p>13 A. By the mayor.</p> <p>14 Q. And the next paragraph, develop training schedules to 15 educate employees and manager on how to recognize, 16 accommodate and appreciate individual differences and 17 how these can be bridged back to assist in meeting 18 city business and service plans. Were you able to 19 execute those responsibilities, sir?</p> <p>20 A. Yes, to the extent that I was allowed to secure 21 training from both the Equal Employment Opportunity 22 Commission and the Michigan Department of Civil 23 Rights, but only to selectively train certain city 24 employees, to the extent that I was not allowed to 25 educate or train City employees in those two</p>	<p style="text-align: right;">Page 370</p> <p>1 I was able to train the actual employees within the 2 department.</p> <p>3 Q. Why?</p> <p>4 A. My training was restricted to appointees and managers.</p> <p>5 Q. Well, that's inconsistent with your job description 6 though, isn't it?</p> <p>7 A. It is, yes.</p> <p>8 Q. And why were you not able to train the employees?</p> <p>9 A. Again, because the City -- the mayor indicated that he 10 wanted the training to be at that level and I put 11 forward a recommendation to him to do some additional 12 training but that was never acted on by the time that 13 I was dismissed.</p> <p>14 Q. Okay. And did this kind of training take place prior 15 to or subsequent to the mayor telling you to put 16 diversity on hold?</p> <p>17 A. It was -- actually, it was afterwards, it was after a 18 meeting with the -- that I convened with the Michigan 19 Department of Civil Rights and the EEOC in which the 20 mayor asked them how was the City doing and they 21 replied that the City was doing dismally, failing 22 miserably, which was the comment from Lolita Davis 23 from the EEOC.</p> <p>24 Q. Is that in the area of race relations?</p> <p>25 A. Yeah, race relations, employment practices, yeah --</p>

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<p style="text-align: right;">Page 371</p> <p>1 MR. ACHO: I'll object as to hearsay.</p> <p>2 A. -- and in the -- in the same meeting where myself, the</p> <p>3 mayor and several other people were, the Michigan</p> <p>4 Department of Civil Rights representative was asked,</p> <p>5 well, how are we doing in comparison to everyone else</p> <p>6 and Anthony Lewis shared with the mayor that the City</p> <p>7 was not doing well enough to try to compare</p> <p>8 themselves, in comparison to other municipalities.</p> <p>9 BY MR. MUNGO:</p> <p>10 Q. Who is Anthony Lewis?</p> <p>11 A. Anthony Lewis is the community director and lead</p> <p>12 trainer for the Michigan Department of Civil Rights.</p> <p>13 Q. So it was after that that you said was subsequent to</p> <p>14 that meeting and that series of training that the</p> <p>15 mayor told you to put diversity training on hold?</p> <p>16 A. Yes, it was the third instance of him saying that,</p> <p>17 this was during those training periods.</p> <p>18 Q. So, sir, are you saying that Mayor Fouts told you on</p> <p>19 three separate occasions to put diversity training on</p> <p>20 the back burner?</p> <p>21 A. Yes, sir. Yes.</p> <p>22 Q. All right. Let's look at the next paragraph, it says,</p> <p>23 to obtain slash create diversity training, materials</p> <p>24 and prevent, coordinate appropriate training</p> <p>25 opportunities for employees of the police department</p>	<p style="text-align: right;">Page 373</p> <p>1 to execute on those responsibilities?</p> <p>2 A. Only to a limited extent where I participated in</p> <p>3 conversations regarding recommended, necessary</p> <p>4 remedial actions. The investigations of the persons</p> <p>5 that I trained began, in one instance, in 2015 and</p> <p>6 then another in 2016 and then with Ms. Howlett in</p> <p>7 2017.</p> <p>8 Q. Okay. So were you, overall, able to effect and</p> <p>9 complete the execution and responsibilities as</p> <p>10 enumerated in that paragraph?</p> <p>11 A. No.</p> <p>12 Q. And why not?</p> <p>13 A. Again, as I said, these investigations were already in</p> <p>14 process or had been completed.</p> <p>15 Q. All right. Very good. Thank you. The next</p> <p>16 paragraph, develop and implement metrics for measuring</p> <p>17 the effectiveness of diversity initiatives and prepare</p> <p>18 quarterly reports for the administration on the value</p> <p>19 of the initiatives. Were you able to accomplish that?</p> <p>20 A. I did provide the mayor with a weekly update for a</p> <p>21 sustained period of time on all the -- of the</p> <p>22 initiatives I was proposing and engaging in.</p> <p>23 Q. And then I think we're looking at the last bullet</p> <p>24 item, keep current on diversity programs and</p> <p>25 developments by maintaining contact with others in the</p>
<p style="text-align: right;">Page 372</p> <p>1 and fire department and other City departments as may</p> <p>2 be directed by the mayor. Was that accomplished, sir?</p> <p>3 A. I did obtain training materials and was not able to</p> <p>4 present them to the police department or the fire</p> <p>5 department due to the timing. It was my goal to begin</p> <p>6 training of the police and fire department in 2018.</p> <p>7 Q. So was this at a point in time in which Jere Green,</p> <p>8 the police commissioner at that time, had refused to</p> <p>9 cooperate with you in giving you what you needed in</p> <p>10 order to actually implement the training?</p> <p>11 A. That information was required so that I could, one,</p> <p>12 confirm the type of training, that it had been</p> <p>13 provided, and then to determine what other training</p> <p>14 would be necessary.</p> <p>15 Q. Did you ever get that information?</p> <p>16 A. No, I did not.</p> <p>17 Q. So you weren't able to do the training?</p> <p>18 A. That's correct, for the police and fire department.</p> <p>19 Q. All right. The next one, the paragraph says,</p> <p>20 investigate and assist in the investigation of</p> <p>21 appropriate -- inappropriate and improper activities</p> <p>22 that impair diversity and inclusion in the police</p> <p>23 department, the fire department and other City</p> <p>24 departments and functions and where appropriate</p> <p>25 recommend necessary remedial actions. Were you able</p>	<p style="text-align: right;">Page 374</p> <p>1 field, and then it goes into your qualifications and</p> <p>2 is there any reason to believe that you did not</p> <p>3 satisfy, meet all of those qualifications named at the</p> <p>4 bottom of the second page going into the last page</p> <p>5 there, sir?</p> <p>6 A. No, sir, I did meet them.</p> <p>7 Q. Okay. Very good. So if we were to sum it all up,</p> <p>8 sir, your duties and responsibilities as outlined in</p> <p>9 your job description, diversity and inclusion</p> <p>10 coordinator, were you -- if I understood your</p> <p>11 testimony correctly, you were not able to fulfill</p> <p>12 these responsibilities because the mayor, Mayor Fouts,</p> <p>13 would not allow you to --</p> <p>14 MR. ACHO: Objection, leading and</p> <p>15 suggestive.</p> <p>16 BY MR. MUNGO:</p> <p>17 Q. -- would that be a fair summary?</p> <p>18 MR. ACHO: The testimony stands as it is,</p> <p>19 that suggests feeding this man testimony, that's all</p> <p>20 it is.</p> <p>21 BY MR. MUNGO:</p> <p>22 Q. Would that be a fair assessment, sir?</p> <p>23 A. Yes.</p> <p>24 MR. MUNGO: Let the record reflect I'm</p> <p>25 about to show the deponent Deposition Exhibit -- hold</p>

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<p>1 on a second -- Exhibit Number 9, Deposition Exhibit</p> <p>2 Number 9. There you go, sir?</p> <p>3 MR. ACHO: Don't throw things at me.</p> <p>4 Please, don't throw it anymore. Don't do that. Don't</p> <p>5 do that.</p> <p>6 MR. MUNGO: That was not meant to --</p> <p>7 MR. ACHO: I don't appreciate it.</p> <p>8 MR. MUNGO: I didn't mean to throw anything</p> <p>9 at you. I've been doing that all night.</p> <p>10 MR. ACHO: No, you've handed it to me. I</p> <p>11 don't like you doing stuff like that.</p> <p>12 MR. MUNGO: You misread reality.</p> <p>13 MR. MARKO: I think that --</p> <p>14 MR. MUNGO: You're not in touch with</p> <p>15 reality.</p> <p>16 MR. MARKO: -- we're at nine-plus hours of</p> <p>17 deposition and --</p> <p>18 MR. ACHO: You know what, you've gone way</p> <p>19 beyond your time.</p> <p>20 MR. MUNGO: I want to go on with my exam,</p> <p>21 please.</p> <p>22 BY MR. MUNGO:</p> <p>23 Q. Sir, are you able to identify that document?</p> <p>24 A. Yes.</p> <p>25 Q. What is that document?</p>	<p>1 24, 2017, correct?</p> <p>2 A. Yes.</p> <p>3 Q. And when were you actually terminated by the mayor?</p> <p>4 A. December 8, 2017.</p> <p>5 Q. And in the -- the ideas and the thoughts that you</p> <p>6 expressed in this letter dated -- resignation</p> <p>7 consideration letter dated October 24th, contains the</p> <p>8 same ideas and thoughts that you have conveyed in your</p> <p>9 deposition, your previous deposition as well as today,</p> <p>10 correct?</p> <p>11 A. Yes.</p> <p>12 MR. ACHO: Objection, leading and</p> <p>13 suggestive constantly, highly inappropriate.</p> <p>14 BY MR. MUNGO:</p> <p>15 Q. And the second page, sir, the second paragraph, you</p> <p>16 indicate -- oh, I'm sorry, take the first paragraph,</p> <p>17 which is very important, in the second -- the first</p> <p>18 paragraph of the second page you say, I almost feel</p> <p>19 like someone here thinks me -- thinks of me as an</p> <p>20 albeit skilled beast of burden, that the more I</p> <p>21 produce, the more I should produce without genuine</p> <p>22 recognition. The situation is akin to be considered</p> <p>23 an indentured servant who someone here thinks has no</p> <p>24 other option than to take on these other uncompensated</p> <p>25 responsibilities, many of which could divert me from</p>
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<p>1 A. This is the -- my resignation consideration to the</p> <p>2 mayor.</p> <p>3 Q. Okay. I want to draw your attention to paragraph</p> <p>4 number 1. You indicate in this first paragraph, this</p> <p>5 is your letter to the mayor where you indicated that</p> <p>6 you were going to resign because the mayor refused to</p> <p>7 allow you to do diversity work, correct?</p> <p>8 MR. ACHO: That's not what he said -- wait</p> <p>9 a minute -- misleading, not what it says.</p> <p>10 BY MR. MUNGO:</p> <p>11 Q. It's consistent with -- consistent with your job</p> <p>12 description, correct?</p> <p>13 A. Yes, what I shared with him, with regard to my work</p> <p>14 environment and absent an irrevocable reset and</p> <p>15 doubling down of his stated commitment to diversity,</p> <p>16 that was my primary reason for this letter and the</p> <p>17 primary reason for the letter itself was because,</p> <p>18 again, as I said, the mayor said on three different</p> <p>19 occasions, he wanted me to hold off on diversity, put</p> <p>20 it on the back burner until after the 2019 election</p> <p>21 and he was trying to give me busy work, which I</p> <p>22 thought was the census liaison work until that time</p> <p>23 and the census liaison was completely outside of my</p> <p>24 job description.</p> <p>25 Q. And this letter is dated -- this memo is dated October</p>	<p>1 my primary responsibility here, and when you said your</p> <p>2 primary responsibility here, what were you</p> <p>3 referencing?</p> <p>4 A. Diversity related.</p> <p>5 Q. And I think you tend to say that as it goes on. You</p> <p>6 say, perhaps that is the strategy of distraction to</p> <p>7 avoid strongly focusing on diversity?</p> <p>8 A. That is correct.</p> <p>9 Q. So, sir, you expressed this concern and this idea back</p> <p>10 in October of 2017, correct?</p> <p>11 A. Yes.</p> <p>12 Q. And this is long before Ms. Howlett filed her</p> <p>13 complaint, correct, if she filed her complaint in 2017</p> <p>14 this letter was drafted way before that, correct?</p> <p>15 MR. ACHO: Wait. Objection, leading,</p> <p>16 suggestive.</p> <p>17 A. No.</p> <p>18 MR. ACHO: This is a perfect example of</p> <p>19 this dishonesty in this deposition by counsel.</p> <p>20 MR. MUNGO: Okay. Great. You may have a</p> <p>21 point there for the first time all day long, okay,</p> <p>22 Mr. Acho.</p> <p>23 MR. ACHO: Don't laugh at me, sir. I don't</p> <p>24 think it's funny. Laughing at me is highly</p> <p>25 inappropriate, it really is wrong.</p>

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<p style="text-align: right;">Page 379</p> <p>1 MR. MUNGO: I am an American and I have a 2 constitution, don't tell me not to laugh. You don't 3 intimidate me. I'll continue my exam. 4 BY MR. MUNGO: 5 Q. Okay. So you express this sentiment, sir, long before 6 you were contacted to draft that affidavit, to sign 7 your affidavit, correct? 8 A. Yes. 9 Q. Okay. And also in the second paragraph there, sir, 10 you indicate that, in your statement to me two weeks 11 ago, you indicated intent to put diversity on the back 12 shelf until after the election of 2019 based purely on 13 political consideration, you expressed to me your 14 belief -- you express your belief that the climate was 15 not quite ready for diversity. You mentioned the 16 problems of LAM and Dean Berry, Kelly Colegio, et 17 cetera, might serve to create a political backlash 18 should you aggressively promote diversity. 19 More, Mr. Mayor, I am repulsed at being 20 asked to tread water for two years. There are things 21 we can do now incrementally to advance diversity 22 without shelving it, it is a matter of political will. 23 You penned those words long before you 24 signed your affidavit that we're going to use here 25 today as an exhibit too, correct?</p>	<p style="text-align: right;">Page 381</p> <p>1 showed you a letter from the late Dr. Martin Luther 2 King's daughter, Bernice King. Do you recall that? 3 A. Yes. 4 Q. Does that letter to you indicate that and also mean 5 that you were able to do your work, your diversity 6 work, that you were hired to do within the City of 7 Warren? 8 A. No, there has been -- bears no statements in there. 9 Q. Do you see any relationship of that letter to your 10 being allowed to execute your duties as diversity 11 coordinator? 12 A. No, sir. 13 Q. And can you elaborate on that briefly? 14 A. Even though the letter was written by Bernice King, I 15 think the environment on the ground is altogether 16 different from what he was being praised in the letter 17 for doing. Ms. King has no knowledge of the 18 environment that I came in and endured during my 19 employment with the City and, certainly, that letter 20 was written before the mayor shared with me that 21 diversity was to be put on the back burner until after 22 the election for political considerations because he 23 felt that white voter backlash. 24 Q. And you recall the question that counsel asked you 25 about, I think he used the term that you requested the</p>
<p style="text-align: right;">Page 380</p> <p>1 A. Yes. 2 Q. And then I want you to look down at the third to the 3 last paragraph, sir -- 4 A. Yes. 5 Q. -- where it says with regard to my work environment, 6 I'm also -- have also -- I also have a choice and I'm 7 stating to you directly that absent and irrevocable 8 reset and doubling down on your stated commitment to 9 diversity, our work relationship will soon end? 10 A. Yes. 11 Q. So it was your intent to use this letter to get Mayor 12 Fouts' attention to focus on diversity that he was 13 delaying and avoiding, right? 14 MR. ACHO: Objection, leading and 15 suggestive, you're putting words in this man's mouth, 16 which is why we're going to have a number of questions 17 going into this. 18 A. Yes. 19 BY MR. MUNGO: 20 Q. Okay. All right. Very good. Okay. Deposition 21 Exhibit Number 5, I'm now showing it to the deponent. 22 Could you take a look at that, sir, and 23 tell me whether or not you recognize that document? 24 A. Yes. 25 Q. Sir, before we move on into that document, counsel</p>	<p style="text-align: right;">Page 382</p> <p>1 mayor to delay hiring a human resource -- an 2 African-American human resource director? 3 A. Yes. 4 Q. You do remember that question? 5 A. I do remember the question. 6 Q. Okay. Is that true that you -- that you told the 7 mayor to hold off or delay hiring a director of human 8 resources? 9 A. Yes, I did but, again, within the context of the 10 discussion that we were having because this was, 11 again, another instance of where he shared his 12 concerns about that backlash, et cetera, and so from a 13 strategic standpoint it would be better to delay, not 14 eliminate, the hiring of that person but to delay it 15 so it didn't create a backlash, create an environment 16 where no more could be hired or no more could be done 17 because of the backlash. 18 Q. Let me ask you this, sir, was that your preference and 19 did you come up with this whole original notion of not 20 aggressively pursuing diversity, including the hiring 21 of a -- African-American human resources director? 22 MR. ACHO: Objection, leading, suggestive. 23 A. The mayor shared with me his concerns about how that 24 could create a backlash, and I certainly did not want 25 anything to happen that would shut down the ability to</p>

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<p style="text-align: right;">Page 383</p> <p>1 further diversify the city due to a backlash of white 2 voters and residents of the city. 3 BY MR. MUNGO: 4 Q. Did you believe that there would be a white backlash 5 of citizens for pursuing diversity? 6 A. I have no idea. I know what his concern was as 7 repeatedly expressed to me. 8 Q. And is that the reason you made that suggestion about 9 gradually making that change? 10 A. Yes. 11 MR. ACHO: Objection, leading and 12 suggestive. Never used the word, gradually, never 13 even used it. This is typical, this is becoming 14 really absurd and I am going to present it to the 15 court. 16 A. It would have been a strategic delaying so as to 17 further create the environment in which the 18 appointment of that African-American female director 19 would not have caused a backlash to -- to choke off 20 the ability to continue to diversity. 21 BY MR. MUNGO: 22 Q. So you were trying to operate within the narrow 23 freedom that the mayor gave you to do diversity work, 24 would that be a fair assessment? 25 A. Yeah, I tried the best I could.</p>	<p style="text-align: right;">Page 385</p> <p>1 Q. And I want to direct your attention to certain 2 paragraphs. 3 MR. MARKO: Which page? 4 MR. MUNGO: Well, the first -- well, it 5 would be the second page, right after the caption 6 page. 7 BY MR. MUNGO: 8 Q. You indicate in paragraph four that in your opinion 9 the mayor of the City of Warren, Mayor Fouts, is tone 10 deaf and disingenuous, that is, not genuinely 11 interested in adopting practices necessary to address 12 racial diversity within City government and you've 13 testified today a lot in terms of Mayor Fouts' 14 reluctance to pursue and affect diversity within the 15 City of Warren and the reasons why he indicated that 16 he did not want to pursue diversity within the City of 17 Warren. 18 Is there anything else you want to add to 19 this paragraph after having sat at least through one 20 and almost another deposition? 21 A. It is that I do believe that the mayor was not genuine 22 in his commitment to diversity, to the extent that he 23 would allow practices and engagement with various 24 parts of the community in order to bring that forward 25 and, again, I have to go back to him saying that he</p>
<p style="text-align: right;">Page 384</p> <p>1 Q. But that was not your preference to gradually hire 2 African-Americans, correct? 3 A. No, that was not my preference. 4 Q. Was it your preference, in any way, to delay the 5 hiring of African-Americans in the City of Warren? 6 MR. ACHO: Objection, leading and 7 suggestive. He's already testified that -- 8 A. It was not my preference to do so but, again, faced 9 with the mayor's fear and the reaction that the mayor 10 said he might experience from a strategic standpoint, 11 I did not say, don't do it. I did say, delay until we 12 can get the environment right. 13 BY MR. MUNGO: 14 Q. And was that out of a fear, sir, out of a certain 15 fear? 16 A. It was out of a fear that the backlash would close 17 down the opportunities altogether. 18 Q. For what? 19 A. For further diversifying the City. 20 Q. Thank you. Sir, I want to direct your attention to 21 the last exhibit there. Do you see that one? I want 22 you to -- do you recognize that document, sir? 23 A. The deposition -- I mean, the affidavit? 24 Q. Yes, sir. 25 A. Yes, I do.</p>	<p style="text-align: right;">Page 386</p> <p>1 wanted to put diversity on the back burner. 2 The mayor admitted such in his own words in 3 an interview with the Macomb Daily that I was to 4 pursue disabilities and then later on get to 5 diversity, and that's in the Macomb Daily article and 6 so he, himself, shared that he did not want me to 7 focus on diversity but rather disabilities, and that 8 was not why I came to the City of Warren. 9 Q. Okay. Sir, earlier you were asked whether or not you 10 were personally aware of any African-Americans that 11 had applied to become police officers in the City of 12 Warren and were not successful. Do you recall counsel 13 asking you that question -- 14 A. Yes. 15 MR. ACHO: I didn't say that. I never 16 asked that question. 17 BY MR. MUNGO: 18 Q. -- or some question to that effect? 19 MR. ACHO: Say it right. 20 MR. MARKO: Go ahead. 21 A. Okay. 22 BY MR. MUNGO: 23 Q. Don't listen to him. 24 A. I understand that I was asked whether or not I had 25 developed policies or whatever regarding and</p>

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<p style="text-align: right;">Page 387</p> <p>1 submitting programs in writing to the mayor as it 2 relates to diversity for the police department. I 3 did, again, doing my -- 4 MR. ACHO: That's not what he asked you. 5 MR. MARKO: Go ahead. 6 A. In my due diligence, I went out and spoke to Police 7 Chief Craig, I met with the president of the Retired 8 Detroit Police Officers Association, and all of this 9 is a part of doing your due diligence, getting your 10 information together. I met with the president of the 11 Hispanic Police Officers Association and -- 12 MR. ACHO: That's not what he asked you. 13 A. So I was, to a certain extent, doing my research and 14 whatnot in order to provide the mayor with the best 15 type of recommendations for diversifying the City, all 16 to no avail. 17 BY MR. MUNGO: 18 Q. Do you recall counsel asking you questions, Mr. 19 Murray, as to whether or not you had gone out and 20 asked and sought out individual African-Americans to 21 apply to become police officers for the City of 22 Warren? 23 A. I do remember that. 24 Q. Okay. Was that your responsibility as the diversity 25 coordinator?</p>	<p style="text-align: right;">Page 389</p> <p>1 Q. Mr. Murray, let me ask you -- 2 MR. ACHO: Will you, sir, please, I'm 3 asking you a question. 4 BY MR. MUNGO: 5 Q. Mr. Murray, I'm going to ask you in this way, sir, if 6 you look at your job description is it your 7 responsibility to go out and individually recruit 8 individuals, African-Americans, to apply to become 9 police officers for the City of Warren or was it your 10 responsibility to change the institutional process for 11 recruiting? 12 A. It was not my responsibility to go out and 13 individually recruit and, yes, it was my 14 responsibility to help develop policies and practices, 15 including recruitment strategies, to bring blacks into 16 the police force. 17 Q. Now, let me ask you a question, Mr. -- 18 MR. ACHO: Sir, will you answer my 19 question? Sir. Sir. Sir. Mr. Mungo, with all due 20 respect -- 21 BY MR. MUNGO: 22 Q. On the second page of -- 23 MR. ACHO: With all due respect -- 24 MR. MUNGO: I'm not going to answer your 25 question.</p>
<p style="text-align: right;">Page 388</p> <p>1 A. Not mine solely alone, no. 2 Q. Not yours solely alone? 3 A. That's correct. 4 Q. Go ahead. 5 A. I can -- I would promote diversity by engaging in the 6 public, which I did continuously and asking them to 7 consider coming to work for Warren, finding out the 8 process for becoming a police officer because those 9 are very stringent requirements and you cannot just -- 10 not just anyone can apply and so I did promote the 11 idea of seeking employment with the City and the 12 police department, which is why I brought NOBLE in, 13 the National Organization of Black Law Enforcement 14 Executives, NOBLE. 15 Q. Let me ask you this way, Mr. Murray, if you look at 16 your -- 17 MR. ACHO: Counsel, excuse me, we're almost 18 at 9:00. You still are not going to tell me how much 19 this attorney over an hour ago said he wouldn't allow 20 me to ask questions and, yet, you don't even tell us 21 how long you're going to be because you're way beyond 22 the time limits. Will you tell me how much longer you 23 are going to be, yes or no? 24 BY MR. MUNGO:</p>	<p style="text-align: right;">Page 390</p> <p>1 MR. ACHO: You still won't? An hour ago I 2 asked you. 3 MR. MUNGO: This is very rude. 4 MR. ACHO: No, you're being rude by not -- 5 it's almost 9:00 p.m. and you won't tell us. All 6 these people have to get home too and you won't even 7 have the -- 8 MR. MUNGO: What you're doing is absolutely 9 ridiculous, Mr. Acho. 10 MR. ACHO: You won't give us the 11 courtesy -- 12 MR. MUNGO: I'm going to continue. Tell me 13 when you're done. 14 BY MR. MUNGO: 15 Q. Okay. Mr. Murray, look at the second page of your 16 affidavit, sir -- actually -- actually, the third 17 page, sir, paragraph 8, it's paragraph 8. I have a 18 question, here you write, Mayor Fouts stated to me 19 that Police Commissioner Jerre Green was not interested 20 in diversity and that Commissioner Green told Fouts 21 that blacks couldn't pass necessary tests or 22 background investigations in order to become police 23 officers with the City of Warren. 24 Do you believe that that had an impact on 25 the inability for the City of Warren to hire</p>

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<p>1 African-Americans and, if so, how much?</p> <p>2 MR. ACHO: Objection, pure speculation.</p> <p>3 A. I would say yes, given that their recruitment</p> <p>4 strategies were not tailored toward being inclusive of</p> <p>5 communities of color and if you don't recruit in that</p> <p>6 community you won't get applicants from that</p> <p>7 community.</p> <p>8 BY MR. MUNGO:</p> <p>9 Q. Okay. Okay. Okay. And then there's this one other</p> <p>10 question I have for you, Mr. Murray, then I'm going to</p> <p>11 turn it over to counsel.</p> <p>12 In your affidavit you make a statement</p> <p>13 regarding the mayor's mocking of individuals who have</p> <p>14 Tourette's syndrome --</p> <p>15 A. Yes.</p> <p>16 Q. -- and he asked you to erase that section, it's</p> <p>17 paragraph 13, see that?</p> <p>18 A. Yes.</p> <p>19 Q. The mayor asked you to erase his derogatory comments</p> <p>20 toward those who had the disability of Tourette's</p> <p>21 syndrome?</p> <p>22 A. Yes.</p> <p>23 Q. Do you have anything to add to that, sir?</p> <p>24 A. I did go over to the communications department and was</p> <p>25 able to delete some of the files and that's why I say</p>	<p>1 Q. Go ahead.</p> <p>2 A. Based on my --</p> <p>3 MR. ACHO: Oh, please, and stop laughing at</p> <p>4 me.</p> <p>5 A. -- exposure to the mayor --</p> <p>6 MR. ACHO: Please stop laughing.</p> <p>7 MR. MARKO: Go ahead.</p> <p>8 Counsel, we're stopping at 9:00 so go ahead</p> <p>9 and --</p> <p>10 A. Based on my continuous exposure to the mayor and based</p> <p>11 on some of the comments that he shared with me during</p> <p>12 that time period, I'm now of the conclusion that that</p> <p>13 is the mayor's voice.</p> <p>14 MR. ACHO: I'll ask that that be stricken.</p> <p>15 MR. MUNGO: I'm done.</p> <p>16 MR. ACHO: I have about an hour and a</p> <p>17 half --</p> <p>18 MR. MARKO: Nope, under Federal Rule 30</p> <p>19 it's limited to 7 hours. I looked at the first</p> <p>20 deposition and it was three hours, it started at 10:17</p> <p>21 and it ended at 1:36 p.m., it was just over three</p> <p>22 hours and that was Mungo's questioning.</p> <p>23 Today's deposition has gone six-and-a-half</p> <p>24 hours, which was both you and Mr. Mungo, so we are</p> <p>25 over nine hours.</p>
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<p>1 I partially completed it. There are still copies of</p> <p>2 that tape or I -- when I left there there was still</p> <p>3 copies of the tape on the City communications server.</p> <p>4 Q. Did the mayor tell you why he wanted you to erase that</p> <p>5 tape, sir?</p> <p>6 A. He was concerned that it might be linked to the</p> <p>7 comments on the first tape where he made, allegedly</p> <p>8 made disparaging remarks about people with</p> <p>9 disabilities saying they're like animals, they should</p> <p>10 be caged, et cetera.</p> <p>11 Q. Have you ever heard that tape?</p> <p>12 A. Yes.</p> <p>13 Q. Did it sound like the same --</p> <p>14 MR. ACHO: Oh, my gosh, objection,</p> <p>15 irrelevant, speculative, lack of foundation, lack of</p> <p>16 knowledge, this is a travesty.</p> <p>17 BY MR. MUNGO:</p> <p>18 Q. Did it sound like the same voice to you on both tapes?</p> <p>19 MR. ACHO: I want the same objection, it is</p> <p>20 lack of foundation, hearsay, it is an absolute</p> <p>21 travesty to suggest that this man knows this answer.</p> <p>22 A. Based --</p> <p>23 MR. MUNGO: Well, you wanted this</p> <p>24 deposition, didn't you?</p> <p>25 BY MR. MUNGO:</p>	<p>1 MR. ACHO: Mr. Mungo had way more time.</p> <p>2 MR. MARKO: At 9:00 I'm terminating the</p> <p>3 dep. Go ahead and ask whatever questions you want</p> <p>4 until that time. I'm not subjecting this poor man to</p> <p>5 anymore deposition. Under Federal Rule 30 you have to</p> <p>6 get a court order and that's --</p> <p>7 MR. ACHO: I'm not going to spend 10</p> <p>8 minutes. I am going to go to court because if you're</p> <p>9 going to cancel, that is absurd.</p> <p>10 MR. MARKO: Nine-and-a-half hours of</p> <p>11 deposition, that is --</p> <p>12 MR. ACHO: No. No, I will go to court.</p> <p>13 (The deposition was concluded at 8:50 p.m.</p> <p>14 Signature of the witness was not requested by</p> <p>15 counsel for the respective parties hereto.)</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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